

AGENDA

PLANNING COMMITTEE MEETING



Date: Thursday 25 February 2010
Time: 6.00 p.m.
Venue: Town Hall, High Street,
Maidstone

Membership:

Councillors Lusty (Chairman), Ash, English, Greer,
Harwood, Mrs Marshall, Moriarty,
Nelson-Gracie, Paine, Paterson,
Mrs Robertson, Thick and J.A. Wilson

Page No.

1. Apologies for Absence
2. Notification of Substitute Members
3. Notification of Visiting Members
4. Items withdrawn from the Agenda
5. Date of Adjourned Meeting - 4 March 2010

Continued Over/:

Issued on 17 February 2010

The reports included in Part I of this agenda can be made available in **alternative formats**. For further information about this service, or to arrange for special facilities to be provided at the meeting, **please contact DEBBIE SNOOK on 01622 602030**. To find out more about the work of the Committee, please visit www.digitalmaidstone.co.uk

**David Petford, Chief Executive, Maidstone Borough Council,
Maidstone House, King Street, Maidstone, Kent ME15 6JQ**

6.	Any business the Chairman regards as urgent including the urgent update report as it relates to matters to be considered at the meeting	
7.	Disclosures by Members and Officers	
8.	Disclosures of lobbying	
9.	To consider whether any items should be taken in private because of the possible disclosure of exempt information.	
10.	Minutes of the meeting held on 4 February 2010	1 - 12
11.	Presentation of Petitions (if any)	
12.	Report of the Development Control Manager - Deferred Items	13
13.	MA/08/1733 - Land at Forest Hill, Tovil, Maidstone	14 - 30
14.	MA/08/2323 - Land at 113 and 115 and 123 Tonbridge Road, Maidstone	31 - 52
15.	MA/09/1514 - Ledian Farm, Upper Street, Leeds, Maidstone	53 - 82
16.	MA/09/1685 - Fairway, Church Hill, Boughton Monchelsea, Maidstone	83 - 91
17.	MA/09/1830 - Rumwood Green Farm, Sutton Road, Langley, Maidstone	92 - 97
18.	MA/09/1831 - Unit 7, Barradale Farm, Maidstone Road, Headcorn	98 - 109
19.	MA/09/1883 - Chareda, Pickering Street, Loose, Maidstone	110 - 122
20.	MA/09/1891 - Petsfield, Eastwood Road, Boughton Malherbe, Maidstone	123 - 132
21.	MA/09/1943 - Ladds Court Barn, Chart Hill Road, Chart Sutton, Maidstone	133 - 145
22.	MA/09/2251 - Land adjacent to 43A Park Way, Maidstone	146 - 153
23.	MA/10/0070 - CCTV Column, St Faiths Street, Maidstone	154 - 158
24.	Report of the Development Control Manager - Appeal Decisions	159 - 160
25.	Report of the Development Control Manager - Results of Consultation on the Planning Enforcement Policy Statement including Practice Standards	161 - 183
26.	Report of the Assistant Director of Development and Community Strategy - Tree Preservation Order No. 20 of 2009 - Tree on Land at Ringers, Upper Street, Leeds, Maidstone	184 - 193
27.	Chairman's Announcements	

28. Update on Matters Referred to the Cabinet Members for Environment/Regeneration

PLEASE NOTE

The order in which items are taken at the meeting may be subject to change.

The public proceedings of the meeting will be broadcast live, and recorded for playback, on the Maidstone Borough Council website.

Agenda Item 10

MAIDSTONE BOROUGH COUNCIL

PLANNING COMMITTEE

MINUTES OF THE MEETING HELD ON 4 FEBRUARY 2010

Present: Councillor Lusty (Chairman) and Councillors Ash, Chittenden, English, Greer, Harwood, Mrs Marshall, Moriarty, Nelson-Gracie, Paine, Paterson, Thick and J.A. Wilson

Also Present: Councillors Mrs Gooch, Horne, Mortimer and Naghi

290. APOLOGIES FOR ABSENCE

It was noted that apologies for absence had been received from Councillor Mrs Robertson.

291. NOTIFICATION OF SUBSTITUTE MEMBERS

It was noted that Councillor Chittenden was substituting for Councillor Mrs Robertson.

292. NOTIFICATION OF VISITING MEMBERS

Councillors Mrs Gooch and Mortimer indicated their wish to speak on the report of the Development Control Manager relating to application MA/09/1061.

Councillor Horne indicated his wish to speak on the report of the Development Control Manager relating to application MA/09/1599.

Councillor Naghi indicated his wish to speak on the report of the Development Control Manager relating to application MA/09/1906.

293. ITEMS WITHDRAWN FROM THE AGENDA

There were none.

294. URGENT ITEMS

Update Report

The Chairman stated that, in his opinion, the update report of the Development Control Manager should be taken as an urgent item because it contained further information relating to matters to be considered at the meeting.

295. DISCLOSURES BY MEMBERS AND OFFICERS

Councillor Chittenden stated that since he had pre-determined applications MA/09/1569 and MA/09/1906, he would speak but not vote when they were discussed.

Councillor Harwood disclosed a personal interest in the report of the Development Control Manager relating to application MA/09/1569. He stated that he was a Member of Boxley Parish Council, but he had not participated in the Parish Council's discussions on the application and intended to speak and vote when it was considered.

Councillor J A Wilson disclosed a prejudicial interest in the exempt report of the Development Control Manager relating to development at Hallam House and Pear Trees, North Street, Headcorn. He stated that he was a Local Authority Director of the Maidstone Housing Trust which had an interest in the development.

296. EXEMPT ITEMS

RESOLVED: That the supplementary exempt report of the Development Control Manager relating to development at Hallam House and Pear Trees, North Street, Headcorn should be taken in private as proposed.

297. MINUTES OF THE MEETING HELD ON 21 JANUARY 2010

RESOLVED: That the Minutes of the meeting held on 21 January 2010 be approved as a correct record and signed.

298. DEFERRED ITEMS

MA/09/1061 - Construction of temporary Spanish polythene tunnels - Marshalls Farm, Hunt Street, West Farleigh, Maidstone

See Minute 300 below.

MA/08/2439 - Change of use of land to employment purposes and erection of mixed use building to provide storage and workshops (Class B2/B8) and associated works including access and parking - Unit 15, Wheelbarrow Industrial Estate, Pattenden Lane, Marden

The Development Control Manager advised Members that he was still awaiting amended plans in respect of this application.

299. TREE PRESERVATION ORDER NO.21 OF 2009 - TREES ON LAND AT COURT LODGE, LOWER ROAD, WEST FARLEIGH

The Committee considered the report of the Assistant Director of Development and Community Strategy concerning Tree Preservation Order No. 21 of 2009 which was made under Section 201 of the Town and Country Planning Act 1990 to protect an avenue of Sweet Chestnut trees at Court Lodge, Lower Road, West Farleigh. It was noted that one

objection to the Order had been received within the statutory 28 day period from its making.

RESOLVED: That Tree Preservation Order No. 21 of 2009 be confirmed without modification.

Voting: 13 – For 0 – Against 0 – Abstentions

300. MA/09/1061 - CONSTRUCTION OF TEMPORARY SPANISH POLYTHENE TUNNELS - MARSHALLS FARM, HUNT STREET, WEST FARLEIGH, MAIDSTONE

All Members except Councillor Paterson stated that they had been lobbied.

The Committee considered the report and the urgent update report of the Development Control Manager.

Mr Taylor, an objector, Councillor Levett of Teston Parish Council (against), Mr Pascall, the applicant, and Councillors Mrs Gooch and Mortimer (both against) addressed the meeting.

RESOLVED: That permission be granted subject to the conditions and informative set out in the report and the following additional conditions and informative:-

Additional Conditions

Within one month of the date of this permission hereby granted details showing the location and width of retained field margins shall be submitted to and approved by the Local Planning Authority and maintained thereafter.

Reason: In the interests of the ecology of the area. This is in accordance with policy NRM5 of the South East Plan 2009.

The retained field margins approved pursuant to condition 4 shall only be cut once a year in October to November.

Reason: In the interests of the ecology of the area. This is in accordance with policy NRM5 of the South East Plan 2009.

Additional Informative

For the avoidance of doubt the following documents were approved as part of the application and must be strictly adhered to:-

Application form, supporting information and elevational drawings received on 22/6/2009; supporting information (including rotation table) received on 27/11/2009; and supporting information, location plan and block plan received on 21/12/2009.

Voting: 10 – For 2 – Against 1 – Abstention

301. MA/09/1673 - ERECTION OF 4 NO. THREE BEDROOM DETACHED HOUSES
- LAND EAST AND WEST OF FAIRBOURNE LANE, HARRIETSHAM

The Committee considered the report of the Development Control Manager.

Mrs Beaton, an objector, Councillor Sams of Harrietsham Parish Council (against) and Mr West, for the applicant, addressed the meeting.

RESOLVED: That permission be granted subject to the conditions and informatives set out in the report with the amendment of conditions 4 and 5 and an additional informative as follows:-

Condition 4 (amended)

Notwithstanding the submitted details, the development shall not commence until there has been submitted to and approved in writing by the Local Planning Authority a reduced area of hardstanding and a scheme of landscaping, including a double staggered hedgerow on the southern side of the southern boundary fence, western boundary adjacent to 'Tara' and eastern boundary adjacent to 'Malinton' and 'Notnilam', using indigenous species, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development and a programme for the approved scheme's implementation and long term management. The scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment and Landscape Guidelines.

Reason: No such details have been submitted in accordance with policies ENV6 and H27 of the Maidstone Borough-Wide Local Plan 2000 and BE1 of the South East Plan 2009.

Condition 5 (amended)

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of ten years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure a satisfactory setting and external appearance to the development in accordance with policies ENV6 of the Maidstone Borough-Wide Local Plan 2000 and BE1 of the South East Plan 2009.

Additional Informative

The landscaping scheme to be submitted should accord with the adopted Landscape Character Assessment for the area. This document can be viewed on the Council's website.

Voting: 13 – For 0 – Against 0 – Abstentions

302. MA/09/1569 - PROPOSED NEW PLANT ROOM BUILDING WITH ANCILLARY USE TO THE EXISTING DATA CENTRE TOGETHER WITH NEW ENERGY COMPOUND AND PERMANENT ERECTION OF ACOUSTIC FENCING AROUND CHILLER COMPOUND - PEGASUS PLACE, LODGE ROAD, BOXLEY, MAIDSTONE

All Members stated that they had been lobbied.

The Committee considered the report and the urgent update report of the Development Control Manager.

Mr Lowder, an objector, and Mr Meakins, for the applicant, addressed the meeting.

RESOLVED:

1. That subject to the expiry of the consultation period on the additional details and the receipt of no representations raising new issues not previously addressed, the Development Control Manager be given delegated powers to grant permission subject to the conditions set out in the report and the additional condition set out in the urgent update report with the amendment of conditions 2 and 3 as follows:-

Condition 2 (amended)

Notwithstanding the details indicated on the submitted drawings written details and samples of the materials to be used in the construction of the external surfaces of the building(s) hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. The submitted materials shall be of a colour and texture that reflects the location of the site within an Area of Local Landscape Importance. The development shall thereafter be constructed using the subsequently approved materials.

Reason: To ensure a satisfactory appearance to the development pursuant to policies BE1 and CC6 of the South East Plan 2009 and policy ENV35 of the Maidstone Borough-Wide Local Plan 2000.

Condition 3 (amended)

The development shall not commence until there has been submitted to and approved in writing by the Local Planning

Authority a scheme of landscaping which is sympathetic to the location of the site within the Area of Local Landscape Importance, using indigenous species, and which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of the development and a programme for the approved scheme's implementation and long term management. The scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment and Landscape Guidelines.

Reason: No such details have been submitted and to ensure a satisfactory appearance to the site pursuant to policies ENV6 and ENV35 of the Maidstone Borough-Wide Local Plan 2000.

2. That the details to be submitted pursuant to conditions 2 (materials) and 3 (landscaping) must be agreed in consultation with the Boxley and East Ward Members.

Voting: 7 – For 5 – Against 0 – Abstentions

Councillors English, Harwood and Paterson requested that their dissent be recorded.

Note: Having pre-determined this application, Councillor Chittenden did not participate in the voting.

303. MA/09/0961 - CONSTRUCTION OF A REPLACEMENT DWELLING WITH NEW ACCESS INCLUDING CHANGE OF USE OF LAND TO RESIDENTIAL - SUNNYSIDE FARM, MAIDSTONE ROAD, MARDEN, TONBRIDGE

The Committee considered the report and the urgent update report of the Development Control Manager.

RESOLVED: That permission be granted subject to the conditions and informative set out in the report as amended by the urgent update report.

Voting: 13 – For 0 – Against 0 – Abstentions

304. MA/09/1906 - RETROSPECTIVE APPLICATION FOR DETACHED TIMBER SUMMER HOUSE WITH DECKING AND ERECTION OF TRELIS FENCING ALONG PART OF WESTERN BOUNDARY - HEATH VIEW, FARADAY ROAD, PENENDEN HEATH, MAIDSTONE

All Members except Councillor Paterson stated that they had been lobbied.

The Committee considered the report and the urgent update report of the Development Control Manager.

Mr West, for objectors, Mr Holt, the applicant, and Councillor Naghi addressed the meeting.

RESOLVED:

1. That permission be granted subject to the conditions and informative set out in the report with the amendment of condition 1, an additional condition to be numbered as condition 2 and the amendment of original condition 2 (to be renumbered as condition 3) as follows:-

Condition 1 (amended)

Within two months, details of the colour of the external finish (stain) of the building and details of the dark stain of the trellis shall be submitted to and approved in writing by the Local Planning Authority. The new colour scheme shall be implemented in full within two months of the decision date and shall thereafter be maintained.

Reason: In the interest of visual amenity. This is in accordance with policy H18 of the Maidstone Borough-Wide Local Plan 2000 and policies CC6 and BE1 of the South East Plan 2009.

Additional Condition (to be numbered as Condition 2)

Notwithstanding the details submitted on drawing no. CB2345.00 received 08/01/10, within two months of the date of this decision a scheme of landscaping including the provision of a beech or hornbeam hedgerow inside the line of fencing along the western boundary to the apex with the southern boundary, and with a return alongside the existing entrance, shall be submitted for approval in writing by the Local Planning Authority. The submitted details shall indicate that the hedgerow is to be maintained to the minimum height of the top of the trellis fencing and shall also show the planting of trees within the line of the required hedgerow.

Reason: To ensure a satisfactory setting and external appearance to the development. This is in accordance with policy H18 of the Maidstone Borough-Wide Local Plan 2000 and policies CC6 and BE1 of the South East Plan 2009.

Original Condition 2 (amended and renumbered as Condition 3)

All planting comprised in the approved landscaping scheme submitted pursuant to condition 2 shall be carried out in the first planting or seeding seasons following the approval of the details, and any planting which within a period of ten years from the completion of the development, dies, is removed or becomes seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure a satisfactory setting and external appearance to the development. This is in accordance with policy H18 of the Maidstone Borough-Wide Local Plan 2000 and policies CC6 and BE1 of the South East Plan 2009.

2. That the details to be submitted pursuant to condition 2 (landscaping) must be agreed in consultation with the Ward Members.

Voting: 8 – For 3 – Against 1 – Abstention

Note: Having pre-determined this application, Councillor Chittenden did not participate in the voting.

305. MA/09/2013 - ERECTION OF A TWO STOREY REAR EXTENSION AND A CHIMNEY - CONIFER FARM, EMMET HILL LANE, LADDINGFORD, MAIDSTONE

The Committee considered the report of the Development Control Manager.

It was noted that Yalding Parish Council had withdrawn its objection to this application.

RESOLVED: That permission be granted subject to the conditions set out in the report.

Voting: 11 – For 0 – Against 2 – Abstentions

306. MA/09/1629 - CHANGE OF USE OF BARN FROM AGRICULTURAL TO B2 USE GENERAL INDUSTRIAL FOR HORSE BOX AND VEHICLE REPAIRS - THE BARN, MOUNT FARM, GREENWAY FORSTAL, HARRIETSHAM

The Committee considered the report and the urgent update report of the Development Control Manager.

Councillor Sams of Harrietsham Parish Council (against) addressed the meeting.

RESOLVED: That permission be granted subject to the conditions and informative set out in the report.

Voting: 12 – For 0 – Against 0 – Abstentions

Note: Councillor English left the meeting during consideration of this application. He returned following consideration of application MA/09/1599.

307. MA/09/1599 - PROVISION OF VEHICLE PARKING TO THE FRONT OF THE DWELLING - PLOT 2, VALHALLA, WARE STREET, WEAVERING, MAIDSTONE

The Committee considered the report of the Development Control Manager.

Ms Looney, for the applicant, and Councillor Horne addressed the meeting.

RESOLVED:

1. That permission be granted subject to the conditions set out in the report and the following informative:-

It has been brought to our attention that the public footpath way-marking sign has been removed. This should therefore be replaced in consultation with the Kent County Council Public Rights of Way Office at Kings Hill, West Malling.

2. That the Officers be requested to write to the Kent County Council Public Rights of Way Office regarding the removal of the public footpath signage.

Voting: 12 – For 0 – Against 0 – Abstentions

Note: Councillor English was not present during consideration of this application.

308. MA/09/1774 - DEMOLITION OF EXISTING CONSERVATORY AND ERECTION OF BRICK, OAK AND TILE GARDEN ROOM - SWAN OAST, STAPLEHURST ROAD, MARDEN, TONBRIDGE

The Committee considered the report and the urgent update report of the Development Control Manager.

RESOLVED: That permission be granted subject to the conditions set out in the report.

Voting: 13 – For 0 – Against 0 – Abstentions

309. MA/09/2291 - ERECTION OF A THREE BEDROOM DETACHED HOUSE - 75 HEATH ROAD, MAIDSTONE

The Committee considered the report and the urgent update report of the Development Control Manager.

RESOLVED: That permission be granted subject to the conditions set out in the report with the amendment of conditions 6 and 8 as follows:-

Condition 6 (amended)

No development shall take place until details of the landscaping scheme for the site including the species, their sizes and locations, together with measures for their protection in the course of development and a programme for the approved scheme's implementation and long term management have been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall include the provision of a low front boundary wall and hedge.

Reason: No such details have been submitted and to ensure a satisfactory setting and external appearance to the development in accordance with policies SP3 and CC6 of the South East Plan 2009, PPS1 and PPS3.

Condition 8 (amended)

The dwelling shall achieve at least a Level 3 of the Code for Sustainable Homes. No dwelling shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 3 has been achieved.

Reason: To ensure a sustainable and energy efficient form of development in accordance with policies SP3, CC1, CC4, H5 of the South East Plan 2009, PPS1 and PPS3.

Voting: 13 – For 0 – Against 0 – Abstentions

310. APPEAL DECISIONS

The Committee considered the report of the Development Control Manager setting out details of appeal decisions that had been received since the last meeting.

RESOLVED: That the report be noted.

311. CHAIRMAN'S ANNOUNCEMENTS

The Chairman announced that:-

- He was disappointed that a Member who had requested that an application be determined by the Committee had not attended the meeting to explain the issues he had raised or given his apologies for non-attendance.
- Arrangements were being made for a briefing by the LDF Team on parking standards and polytunnels. All Members would be invited.
- He had received an email expressing concern about Members' behaviour at meetings of the Planning Committee.

312. UPDATE ON MATTERS REFERRED TO THE CABINET MEMBERS FOR ENVIRONMENT/REGENERATION

It was noted that there was nothing to report at present.

313. EXCLUSION OF THE PUBLIC FROM THE MEETING

RESOLVED: That the public be excluded from the meeting for the following item of business because of the likely disclosure of exempt information for the reasons specified having applied the Public Interest Test:-

Exempt Report of the Development Control Manager - MA/09/1047 and MA/07/1846 - Land at Hallam House and Pear Trees, North Street, Headcorn.

**Head of Schedule
12A and Brief Description**
3 - Financial/Business Affairs
5 - Legal Professional
Privilege/Legal Proceedings

314. MA/09/1047 AND MA/07/1846 - LAND AT HALLAM HOUSE AND PEAR TREES, NORTH STREET, HEADCORN

Having disclosed a prejudicial interest, Councillor J A Wilson left the meeting whilst this matter was discussed.

The Committee considered the exempt report of the Development Control Manager seeking its views as to whether the Council should enter into a Deed of Variation to the Section 106 Agreement dated 14 April 2009 relating to application MA/07/1846 for the erection of a 17 apartment Category II sheltered housing development at Hallam House and Pear Trees, North Street, Headcorn to dispense with the requirement to make a contribution towards the off-site provision of affordable housing in the light of new evidence regarding the viability of the scheme if the payment were to be made and legal advice regarding an appeal against non-determination of application MA/09/1047 for an identical scale, layout and design of development.

RESOLVED:

1. That the Head of Legal Services be authorised to enter into a Deed of Variation to the Section 106 Agreement dated 14 April 2009 relating to application MA/07/1846 for the development of land at Hallam House and Pear Trees, North Street, Headcorn to dispense with the requirement for a contribution towards the off-site provision of affordable housing due to the fact that it has been demonstrated that the development is no longer viable if the payment were to be made.
2. That the Deed of Variation is to be completed prior to 12 February 2010.

Voting: 8 – For 0 – Against 4 – Abstentions

Note: Councillor Thick requested that his dissent be recorded.

315. DURATION OF MEETING

6.00 p.m. to 10.10 p.m.

Agenda Item 12

MAIDSTONE BOROUGH COUNCIL

PLANNING COMMITTEE

25 FEBRUARY 2010

REPORT OF THE DEVELOPMENT CONTROL MANAGER

1. DEFERRED ITEMS

1.1. The following application stands deferred from a previous meeting of the Planning Committee. The Development Control Manager will report orally at the meeting on the latest situation. The application may be reported back to the Committee for determination.

1.2. <u>Description of Application</u>	<u>Date Deferred</u>
(1) <u>MA/08/2439 - CHANGE OF USE OF LAND TO EMPLOYMENT PURPOSES AND ERECTION OF MIXED USE BUILDING TO PROVIDE STORAGE AND WORKSHOPS (CLASS B2/B8) AND ASSOCIATED WORKS INCLUDING ACCESS AND PARKING - UNIT 15, WHEELBARROW INDUSTRIAL ESTATE, PATTENDEN LANE, MARDEN</u>	17 December 2009

Deferred to enable the Officers to discuss with the applicant the following potential amendments to the scheme:-

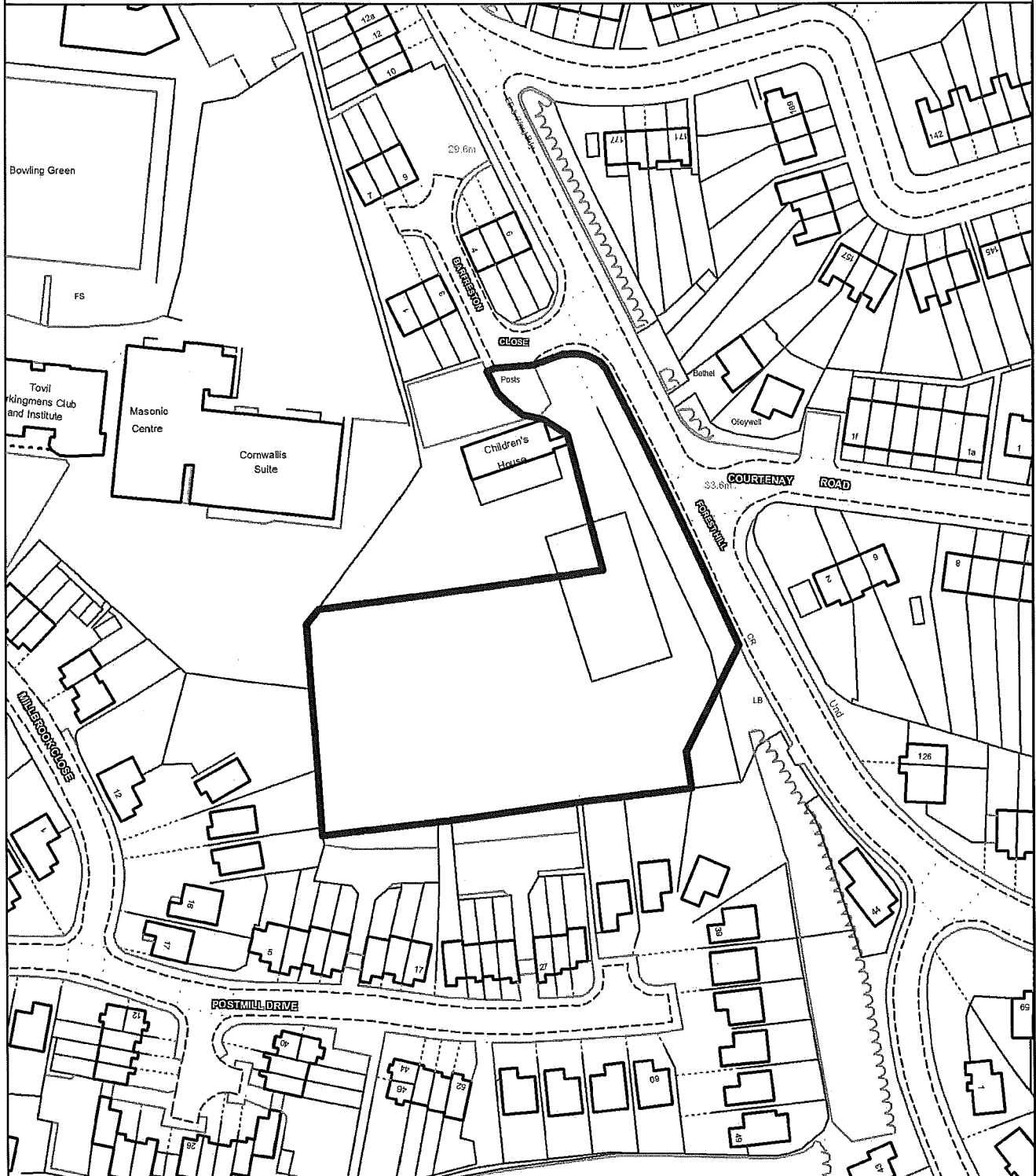
- Enhanced planting along the northern boundary.
- The inclusion of a management plan for landscaping.
- A natural design for the balancing pond.
- The inclusion of details of external lighting.
- The inclusion of a "living roof".
- The relocation of the building back into the site.

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/08/1733

GRID REF: TQ7554

LAND AT, FOREST HILL,
TOVIL.



This copy has been produced specifically for Planning and Building Control Purposes only. No further copies may be made. Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationary Office ©Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. The Maidstone Borough Council No. 1000019636, 2009. Scale 1:1250



Alison Broom
Director of Prosperity and Regeneration

APPLICATION: MA/08/1733 Date: 26 August 2008 Received: 17 November 2009

APPLICANT: Da Vinci Properties Ltd

LOCATION: LAND AT, FOREST HILL, TOVIL, KENT

PARISH: Tovil

PROPOSAL: Outline planning permission for the erection of fourteen zero Carbon Houses with access, layout, scale and appearance to be considered at this stage and all other matters reserved for future consideration as shown on drawing numbers 08-15-01 Rev C and 08-15-02 Rev C received on 23/12/08 and design stage pre-assessment and contamination report received on 27/8/08 and as amended by additional documents being letters received on 23/12/08 and 12/1/09, Ecological Scoping Survey received on 23/12/08, Reptile Survey and Bat and Invertebrate Survey received on 20/7/09 and financial appraisal and supporting information received on 21/10/09 and 17/11/09.

AGENDA DATE: 25th February 2010

CASE OFFICER: Peter Hockney

The recommendation for this application is being reported to Committee for decision because:

- it is contrary to views expressed by the Parish Council
- Councillor Ian Chittenden has requested it be reported for the reason set out in the report

1. POLICIES

Maidstone Borough-Wide Local Plan 2000: ENV6, T13, CF1

South East Plan 2009: CC4, NRM2, NRM4, NRM11, T4, CC1, T4, H4, H5, W1, W6, BE1

Village Design Statement: N/A

Government Policy: PPS1, PPS3, PPS9, PPG13, PPS23, PPS25

1. HISTORY

MA/05/1243 – A consultation with Maidstone Borough Council by Kent County Council for the demolition of existing building and erection of new buildings to accommodate 40 number extra care homes and commercial facilities for the elderly and 6 number supported apartments and commercial facilities for those with learning difficulties, associated car parking is to be provided – WITHDRAWN.

MA/82/0906 – New hard court play area, erection of chain link fence, erection of flood light posts, re-erection of high voltage cable and post – APPROVED.

MA/77/1596 – Cement slope/trough to form slalom run for skateboarding – APPROVED WITH CONDITIONS.

2. CONSULTATIONS

3.1 Tovil Parish Council wishes to see the application REFUSED stating:-

- "There is concern about the noise made by the proposed wind turbines in this residential location.
- Siting of the wind turbines on the chimneys is inappropriate in this location and is not appropriate to this street scene.
- A Management Plan should be submitted for both the wooded area and growing area.
- Growing plots: is one per dwelling to be allocated or is there to be one communal area.
- A Management Plan for the whole site should be submitted."

3.2 Southern Water raise no objections to the application and request a condition requiring details of the surface water drainage to be submitted to ensure that the SUDS scheme would have no impact on the surrounding sewerage network. An informative is also recommended for imposition.

3.3 Southern Gas Networks raise no objections to the development.

3.4 Kent Highway Services raise no objections to the application with regard to highway safety matters.

3.5 Kent Police originally an objection based on the fact that the Design and Access Statement did not address how the development would design out crime. However, that objection was overcome by the applicant.

3.6 West Kent PCT wish a healthcare contribution of £11,880 to be provided for the additional needs and demand caused by the development.

3.7 Mouchel (on behalf of KCC) have requested the following contributions:-
Libraries (£227/dwelling) - £3178.
Adult Education (£180/dwelling) - £2520.
Youth & Community (£827/applicable house) - £11578.
Adult Social Services (£1201/dwelling) - £16814.

3.8 MBC Public Open Space require a contribution of £1575/dwelling equal to £22,050.

3.9 MBC Landscape Officer wishes to see the application APPROVED stating:-
"The tree protection plan (drawing 08-15-01 rev-C) shows the location of the trees within the site and it would indicate none are to be lost. In addition the tree protection method, hard surfacing and site work notes provides basic information to ensure no damage occurs to the trees during the construction."

3.10 MBC Environmental Health Manager is satisfied with the Phase I and Phase II contamination report and raises no objections. A condition to ensure further contamination reports is required and informatives are recommended.

3.11 MBC Property Surveyor has examined the financial appraisal and based on the agreed purchase price and the development costs there would be no scope for additional S106 contributions.

"I will temper this by stating that development costs are high because of the code 6 sustainability the developer is aspiring to. DCLG estimate that these costs are 20%-30% higher than the current requirements under Building Regulations.

The developer is choosing to build out at Code 6, it would therefore be a matter of judgement by the Committee to decide whether this is a greater priority than any 106 requirements, which obviously have wider community benefits. Purely based upon the figures, there is no spare cash for additional 106."

3. REPRESENTATIONS

4.1 Cllr Ian Chittenden has requested the application be reported to Planning Committee stating:-

"I would be grateful if you could report this application to the Planning Committee because of its unusual and unique design.

I would record that I have not pre-determined on this application."

4.2 CPRE Maidstone supports the concept of zero rated Carbon Houses but has concerns with regard to how this can be enforced.

4.3 Three letters have been received raising no objections subject to surface water drainage being adequate.

4.4 Four letters have been received raising the following concerns:-

- Surface water drainage.
- The ability to adequately screen the properties from the east and loss of privacy.
- Loss of trees.

- Concern regarding construction times.
- Loss of wildlife habitat.
- The development would be out of character in the area and would be overbearing.

4. CONSIDERATIONS

5.1 Background and History

- 5.1.1 Initially, I would like to provide Members with a brief chronology to explain the consideration of this application and why it has taken so long since its original receipt.
- 5.1.2 The application was originally made in August 2008. Following consideration of the application and the receipt of consultation responses, further details were requested including arboricultural survey and report, ecological scoping survey and all further surveys that were necessary, assessment of the loss of the MUGA facility and clarification of anomalies within the scheme. This requested information was submitted over a period of time from December 2008, with the last items, being the ecological reports for bats and reptiles, in July 2009.
- 5.1.3 Following the last submission the application was again re-consulted on, responses considered and then S106 contributions were explored with the applicant. In October 2009 the applicant indicated the construction costs being prohibitive to making the full S106 contributions. Following a request for evidence a full financial appraisal of the scheme was submitted in November 2009 and was considered.
- 5.1.4 The application is now complete and accompanied by all the necessary information to enable Members to assess and make a resolution on this development.

5.2 Site Location and Description

- 5.2.1 The application site relates to an area of land on the west side of Forest Hill with access onto Barfreton Close to the north. To the south of the site are the backs of the rear gardens of Postmill Drive. The site is approximately 0.5ha in area and within the urban area of Maidstone and within the Parish of Tovil.
- 5.2.2 There is an existing hard surface 5-a-side pitch/MUGA located on part of the site parallel with Forest Hill. This 5-a-side court is currently unused. Much of the site area is overgrown, although there are some established trees and hedgerows along the margins of the site, although these are not protected by TPOs. There is

approximately a 10 metre drop from the eastern edge of the site at the boundary with Forest Hill and the western boundary with the properties in Postmill Drive. The site also slopes from north to south with a drop of approximately 3 metres.

- 5.2.3 The surrounding area is predominantly residential with a mix of property styles incorporating detached, semi-detached and terraced properties.
- 5.2.4 The site is contained within the Strategic Housing Land Availability Assessment (SHLAA) that was undertaken by Baker Associates consultants on behalf of Maidstone Borough Council. The SHLAA is a recent document and was published in May 2009. The document forms part of the evidence base for the Planning Policy Section and its identification within this document is a material consideration. The anticipated yield of the site contained within the SHLAA is 14 units.

5.3 Proposed Development

- 5.3.1 The application is in outline form and is for the erection of fourteen dwellings that would achieve level 6 on the Code for Sustainable Homes. Details of access, layout, scale and appearance have been submitted with landscaping reserved for future consideration.
- 5.3.2 The proposed dwellings would be contained within a terrace of 14 units on an east to west axis orientated so they would be facing north. The accommodation would be arranged over three floors with an additional basement that would include a heat store/drying area. There would be a balcony on the northern elevation at second floor level. The proposed dwellings would be externally clad with timber using two different finishes with slate tiles to the roofs. A vehicular access would be created onto Forest Hill to the west.
- 5.3.3 The dwellings would have a maximum ridge height of 10.5 metres but would be narrow, 4.3 metres in width. The eaves heights of the properties would vary with 7.7 metres on the north elevation and 3.7 metres on the south elevation.
- 5.3.4 The design of the dwellings is very much to achieve level 6 on the Code for Sustainable Homes. The large roofslope from the northern ridge to the south would accommodate the photovoltaic cells, solar water heater tubes and rooflights. The tall, narrow design is to utilise the solar heated air that would be pumped down to the basement and would rise and be distributed through the house.
- 5.3.5 There would be an open wooden car port area in the northern part of the site that would accommodate 14 car parking spaces and a wood store. A bin store and cycle store that would accommodate 18 bicycle spaces would be proposed.

The store buildings would have a maximum height of 4.1 metres with an eaves height of 2.4 metres. There would be a retained mound adjacent to the boundary with Forest Hill and this would ensure the building would be set approximately 1 metre below this level and the majority of it would be screened from the road.

5.3.6 The trees around the margins of the site would be retained and tree protection measures have been indicated to achieve this. There is an area of mixed woodland proposed with areas planted for biomass production and edible produce. These aspects would form part of the landscaping details to be submitted as a reserved matter.

5.3.7 The wind turbines referred to in Tovil Parish Council's objections have been removed from the scheme. These were optional aspects to the development and the removal would not impact on the level achieved on the Code for Sustainable Homes.

5.4 Principle of Development

5.4.1 The site is previously developed land and within the urban boundary of Maidstone. Therefore the development of the site for housing would comply with national and local policies for new residential development, particularly *PPS3: Housing*.

5.4.2 Furthermore, the site has been listed in the Council's accepted list of sites for residential development in the SHLAA. As previously stated, whilst the SHLAA is not a policy document it does form part of the Council's recently published (May 2009) evidence base and although not the result of a search of sites by the Council it is a reaction to sites suggested to the Council. The site has been identified in the SHLAA as having the potential for 14 residential units. Therefore it is considered that there is a broad acceptance of this site for development of 14 residential units.

5.4.3 The minimum density set out in PPS3 is 30 dwellings per hectare. This site is approximately 0.5 hectares in area and therefore the minimum density would equate to 15 dwellings. Due to the sloping nature of the site and the retention of the trees within the site margins this reduces the developable area of the site and as such 14 dwellings is acceptable.

5.5 Design and Visual Impact

5.5.1 The design of the properties has been significantly influenced by the achievement of level 6 on the Code for Sustainable Homes. The tall, narrow nature of the properties are required to allow the circulation of the solar heated

warm air and the layout of the properties within a single terrace would allow for heat saving.

- 5.5.2 Whilst the site is within an area of other residential properties the site is not directly related to a street scene in terms of a particular house type or design. There are community buildings to the north and small rows of terrace of three properties within Barfreton Close. In the immediate area in Forest Hill and Courtney Road there is a mix of dwellings mostly fronting the street, however, there are some with the backs of rear gardens facing the street. The general area is unremarkable in terms of its architecture and I do not consider that the mimicking of these styles of properties would be a suitable design approach for this site.
- 5.5.3 The long south facing roofslope is required to accommodate the necessary photovoltaic cells and direct solar water heating apparatus to achieve the level 6 on the Code for Sustainable Homes. There is a 3 metre drop in the level of the site from the northern boundary down to the southern boundary and the roofslope would mirror this land form. The roof design would also ensure that the lowest part of the dwellings would be adjacent to the properties in Postmill Drive.
- 5.5.4 I consider that a lot of the design influence has come from the requirement to achieve level 6 of the Code for Sustainable Homes. This approach whilst resulting in a row of dwellings of a functional style it is not unacceptable. The balcony across the north elevation at second floor level adds visual interest to this elevation with the flank elevation facing Forest Hill being articulated with two flank windows flush with the wall and a projecting window at first and second floor. These elements combined with the changes in finish for the timber cladding would ensure that the elevations would be acceptable.
- 5.5.5 The space around the development would allow for a significant amount of proposed landscaping, to be submitted as a reserved matter, as well as allowing for the retention of the significant trees within the margins of the site. This surrounding space and the end on nature of the development to Forest Hill would mean that the height of the dwellings would be acceptable in its context and would not be dominant or intrusive in the street scene.
- 5.5.6 The proposed access point onto Forest Hill would be a new hard surfaced area. However, its location would maintain a significant level of landscaping, including a significant mature tree, along the Forest Hill that would soften the entrance to the development. Furthermore, the access would be relatively narrow at 4.1 metres and the entrance would not appear as a harsh or dominant feature in the area.

5.5.7 The design of the dwellings would be different to other dwellings in the immediate area. However, I do not consider the fact that they are different to mean that they would create visual harm to the area. The finishes, the space surrounding the development and the articulation of the flank elevation facing Forest Hill would result in a development that in design terms would be acceptable.

5.6 Impact on Residential Amenity

5.6.1 The nearest residential property to the proposed development would be 35 Postmill Road to the south of the development. This property would be approximately 37 metres from the proposed development and this distance combined with the low level of the southern elevation of the block would ensure that there would be no adverse impact on residential amenity in terms of privacy, loss of light or an overwhelming impact.

5.6.2 The properties in Forest Hill and Courtney Road are a significant distance away from the development and on the opposite side of Forest Hill. This would ensure that there would be no adverse impact on residential amenity in terms of privacy, loss of light or an overwhelming impact.

5.6.3 The residential properties to the north in Barfreton Close would be approximately 90 metres from the proposed dwellings and this would ensure that even with the higher north elevation of the block and the balcony facing these properties there would be no adverse impact on residential amenity in terms of privacy, loss of light or an overwhelming impact.

5.6.4 The dwelling at 13 Milbrook Close would be the closest dwelling to the development to the west. This property would be approximately 38 metres from the western facing elevation of the terrace and therefore there would be no adverse impact on residential amenity in terms of privacy, loss of light or an overwhelming impact.

5.6.5 Overall I consider that the proposed development has been located and designed in such a way to prevent any harm being caused to the amenity of any neighbouring properties.

5.7 Sustainable Construction Considerations

5.7.1 The purpose of this development is to provide a carbon zero development that would achieve level 6 on the Code for Sustainable Homes. A design stage assessment has been undertaken by a qualified assessor and this confirms that the development would achieve a level 6 on the Code for Sustainable Homes.

5.7.2 The use of the photovoltaic cells, solar water heaters, heat pump heating and building insulation all combine to assist in achieving the level 6.

5.7.3 If permitted this would be the first development within the Borough that would achieve level 6 on the Code for Sustainable Homes and in that respect would be groundbreaking for Maidstone.

5.8 Ecological Considerations

5.8.1 The site is currently overgrown and unkempt and as such there are areas which would not be significantly disturbed as well as significant trees around the site margins and as such would have potential for habitats of protected species.

5.8.2 As a result an ecological scoping report was requested and submitted. This report indicated that the site had potential for reptiles and bats. Following these results and comments from Natural England a presence/absence survey was carried out for both reptiles and bats.

5.8.3 With regard to bats, there were records of moderate foraging during the survey period, however, there was no indication of any roosts on the site. The highest level of foraging activity was observed around the trees on the east and west boundary. These trees are proposed to be retained as part of the scheme and thus the foraging habitat would be relatively undisturbed. The recommendations within the report include that any arboricultural works to mature trees on the site be 'soft felling', this would involve the careful felling and lowering of tree sections to the ground to be inspected by a suitably qualified ecologist. If as a result of this activity bats are found to be present then a European Protected Species licence would be required. A condition should be attached to ensure that the recommendations contained within the submitted report are complied with throughout the development.

5.8.4 With regard to reptiles one slow worm was discovered during the survey times, which indicates a low to moderate population. The advantage of the site development scheme is the space surrounding the dwellings is significant and the proposals to leave the land as herbaceous scrub and bramble or as mixed woodland and soft landscaping would provide sufficient habitat for the resident reptile population. Recommendations are included to enhance the habitat including the creation of brush piles in areas in the east of the site on the south east slope, not creating any breaks in the habitat with accesses to ensure they remain linked and using reptile inclusion fencing on all areas around the part of the site to be hard developed. These recommendations should be incorporated into a condition to ensure they are followed at all times.

5.8.5 I consider that the development, the retention of the mature trees on the site margins and the extent of land around the development for landscaping (to be

submitted as a reserved matter) would protect the biodiversity on site would in fact provide biodiversity enhancements. Natural England does not raise any objections to the application.

5.9 Highway Safety Considerations

- 5.9.1 There is an existing access to the north onto Barfreton Close and this would be retained in order to maintain access to the community building to the north.
- 5.9.2 The residential development would be accessed separately onto Forest Hill to the east with a significant area of landscaping maintained at the Forest Hill boundary. The access would be onto a straight section of Forest Hill and the required visibility splays would be achieved. Therefore the development would not result in a hazard to highway safety.
- 5.9.3 The development includes a parking ratio of 1:1 along with 18 spaces for cycles. This level of provision is acceptable for this urban location nearby to the facilities and amenities of Tovil and Maidstone with good bus links into the town centre.
- 5.9.4 Kent Highway Services have considered the proposed development with regard to highway safety and raise no objections to the application.

5.10 Planning Obligation Considerations

- 5.10.1 The proposed development is for fourteen units and as such falls below the threshold for affordable housing provision. However, there are still other contributions sought including £22,050 for public open space, £11,880 for healthcare, £3178 for libraries, £2520 for adult education, £11,578 for Youth and Community and £16,814 for Adult Social Services.
- 5.10.2 The applicant has submitted that the cost of constructing the development to a level 6 standard on the Code for Sustainable Homes has impacted on the schemes viability. As a result there would only be £34,090 available for S106 contributions without creating the development unviable. A full financial appraisal has been submitted to the Council outlining the costs and yields. This has been studied by the Council's property surveyor who considers the findings sound and agrees with the conclusion that contributions in excess of the £34,090 would render the scheme unviable.
- 5.10.3 As a result and in accordance with the Council's priorities for S106 contributions the S106 should cover the £22,050 for public open space and the £11,880 for healthcare. These two contributions total £33,930. My recommendation is that the Council grants planning permission subject to a completed S106 for public open space contributions and healthcare contributions.

5.10.4 Without this reduction in S106 requirements, the scheme would not be viable and the development of these groundbreaking level 6 dwellings would not be delivered on a site that is identified as an acceptable housing site in the SHLAA. Importantly, the application is for 14 dwellings that would achieve level 6 on the Code for Sustainable Homes and as such the application has to be dealt with as submitted. There would be no scope for amendments in terms of the reduction of the level to be achieved as it would fundamentally change the nature of the development. For this reason I accept the reduced S106 contributions on this scheme.

5.11 Other Considerations

5.11.1 Concern has been raised by nearby residents regarding the surface water drainage proposals a SUDS system is proposed and this should prevent any problems with localised flooding. Southern Water have requested these full details be submitted to ensure the system has no impact on the sewerage system and I consider this an appropriate condition that would also safeguard the neighbouring properties.

5.11.2 Tovil Parish Council raise issues regarding the growing plots and requiring a management plan for the woodland areas as well as the remainder of the site. These issues would be dealt with in the consideration of the reserved matter of landscaping and would be fully considered at that stage.

5.11.3 The application would result in the loss of MUGA. This is an underused facility that has been closed to the public. There would be no significant impact following the loss of this facility and the S106 agreement to provide open space contributions would provide additional facilities.

5.12 Conclusion

5.12.1 The proposed residential development would be on a site that is acceptable in principle for 14 dwellings in terms of local and national policies and its acceptance within the SHLAA. The design, whilst functional with regard to achieving its aim of level 6 on the Code for Sustainable Homes would not be unacceptable and would not result in visual harm to the character and appearance of the area. The landscaping is a reserved matter, however, there is a significant amount of space surrounding the development that would allow a substantial landscaping scheme that would both soften the development and would provide for enhanced biodiversity and habitat. There would be no significant impact on residential amenity of nearby occupiers.

5.12.2 The development would provide 14 units that would achieve level 6 on the Code for Sustainable Homes and as such would be the first of their kind in the Borough. The cost of achieving this level is 20-30% higher than the cost to meet

current Building Regulations (as estimated by DCLG). For this reason the full S106 contributions cannot be made and only public open space and healthcare contributions are sought. The financial appraisal has been assessed by the Council's Property Surveyor who considers the document to be sound and that any increase in the contributions would make the scheme unviable.

5. RECOMMENDATION

SUBJECT TO:

- a) The prior completion of a legal agreement, in such terms as the Borough Solicitor may advise, to secure a contribution of £22,050 towards public open space provision and a contribution of £11,880 to the NHS West Kent Primary Care Trust towards healthcare;

I BE DELEGATED POWER TO GRANT PLANNING PERMISSION subject to the following conditions:

1. The development shall not commence until approval of the following reserved matters has been obtained in writing from the Local Planning Authority:-

- a. Landscaping

Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved;

Reason: No such details have been submitted and in accordance with the provisions of Section 92 of the Town and Country Planning Act 1990.

2. The development shall not commence until samples of the materials to be used within the construction of the buildings, and hard-standing hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed using the approved materials.

Reason: In the interests of securing a high quality finish to the development in accordance with PPS1.

3. As part of the landscaping reserved matter a detailed scheme of landscaping that would enhance the biodiversity and habitat of the site in accordance with the ecological recommendations in the submitted reports, using indigenous species

which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development and a programme for the approved scheme's implementation and long term management. The scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment and Landscape Guidelines;

Reason: No such details have been submitted and in the interests of visual amenity in accordance with PPS1, PPS3 and PPS9.

4. As part of the reserved matter of landscaping a landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than small, privately owned, domestic gardens, shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of the development for its permitted use and the landscape management shall be carried out in accordance with the approved plan over the period specified;

Reason: To ensure satisfactory maintenance and management of the landscaped area in accordance with PPS1.

5. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building(s) or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation;

Reason: To ensure a satisfactory setting and external appearance to the development in accordance with PPS1, PPS3 and PPS9

6. The development shall not commence until, details of all fencing, walling and other boundary treatments have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details before the first occupation of the buildings or land and maintained thereafter;

Reason: To ensure a satisfactory appearance to the development and to safeguard the enjoyment of their properties by existing and prospective occupiers in accordance with PPS1 and PPS3.

7. Approved remediation works shall be carried out in full on site under a Quality Assurance scheme to demonstrate compliance with the proposed methodology. If,

during any works, contamination is identified which has not previously been identified additional Contamination Proposals shall be submitted to and approved by, the local planning authority.

Upon completion of the works, this condition shall not be discharged until a closure report has been submitted to and approved by the local planning authority. The closure report shall include full details of the works and certification that the works have been carried out in accordance with the approved methodology. The closure report shall include details of any post remediation sampling and analysis together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean;

Reason: To prevent harm to human health and pollution of the environment pursuant to policy ENV52 of the Maidstone Borough-Wide Local Plan 2000.

8. The recommendations contained within ecological scoping survey undertaken by Lloyd Bore Ecology dated October 2007, the Bat and Invertebrate Survey undertaken by Andrew McCarthy Associates dated 6 January 2009 and the Reptile Survey undertaken by Bramley Associates dated July 2009 shall be strictly adhered to at all times including during site clearance until the completion of the development;

Reason: To prevent harm to protected species and to enhance biodiversity in accordance with PPS9.

9. No development shall take place until details of the proposed foul and surface water drainage works including measures to safeguard the existing public foul sewer within the site during the course of development have been submitted to and approved in writing by the local planning authority and these works shall be completed in accordance with the approved details before the first occupation of any of the dwellings.

Reason: To ensure adequate drainage arrangements pursuant to PPS25.

10. No development shall take place until details of any lighting to be placed or erected within the site have been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include, inter-alia, details of measures to shield and direct light from the light sources so as to prevent light pollution. The development shall thereafter be carried out in accordance with the subsequently approved details.

Reason: To prevent light pollution in the interests of the character and amenity of the area and to prevent impact on protected species in general pursuant to Policy ENV49 of the Maidstone-Wide Local Plan 2000 and PPS9.

11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended by the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2008 and the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any order revoking and re-enacting that Order with or without modification), no development within Schedule 2, Part 1, Classes A, B and E, Part 2 Class A shall be carried out without the permission of the Local Planning Authority;

Reason: To safeguard the character and appearance of the development and the enjoyment of their properties by existing and prospective occupiers in accordance with policies H5 and BE1 of the South East Plan (2009).

12. The approved details of the parking/turning areas including garages shall be completed before the commencement of the use of the land or buildings hereby permitted and shall thereafter be kept available for such use. No development, whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order, with or without modification) or not, shall be carried out on the areas indicated or in such a position as to preclude vehicular access to them;

Reason: Development without adequate parking/turning provision is likely to lead to parking inconvenient to other road users and in the interests of road safety in accordance with policy BE1 of the South East Plan (2009).

13. The dwelling shall achieve Level 6 of the Code for Sustainable Homes. The dwelling shall not be occupied until a final Code Certificate has been issued for it certifying that Code Level 6 has been achieved;

Reason: To ensure a sustainable and energy efficient form of development in accordance with Policy CC4 of the South East Plan (2009), Kent Design Guide 2000 and PPS1.

Informatives set out below

A formal application for connection to the public sewerage system is required in order to service this development. To initiate a sewer capacity check to identify the appropriate connection point for the development, please contact Atkins Ltd, St James House 39A Southgate Street, Winchester, SO23 9EH (tel 01962 858688) or www.southernwater.co.uk

Attention is drawn to Sections 60 & 61 of the COPA 1974 and to the Associated British Standard COP BS 5228:1997 for noise control on construction sites. Statutory requirements are laid down for control of noise during works of construction and

demolition and you are advised to contact the Environmental Health Manager regarding noise control requirements.

Clearance and burning of existing woodland or rubbish must be carried without nuisance from smoke etc to nearby residential properties. Advice on minimising any potential nuisance is available from the Environmental Health Manager.

Plant and machinery used for demolition and construction shall only be operated within the application site between 0800 hours and 1900 hours on Mondays to Fridays and between 0800 hours and 1300 hours on Saturdays and at no time on Sunday and Bank Holidays.

No vehicles may arrive, depart, be loaded or unloaded within the general site outside the hours of 0800 hours and 1900 Mondays to Fridays and 0800 to 1300 hours on Saturdays and at no time on Sundays and Bank Holidays.

Reasonable and practicable steps should be used during any demolition or removal of existing structure and fixtures, to dampen down, using suitable water or liquid spray system, the general site area, to prevent dust and dirt being blown about so as to cause a nuisance to occupiers of nearby premises.

Where practicable, cover all loose material on the site during the demolition process so as to prevent dust and dirt being blown about so as to cause a nuisance to occupiers of nearby premises.

Attention is drawn to Approved Document E Building Regulations 2003 "Resistance to the Passage of Sound". It is recommended that the applicant adheres to the standards set out in this document in order to reduce the transmission of excessive airborne and impact noise between the separate units in this development and other dwellings.

The proposed development, subject to the conditions stated, is considered to comply with the policies of the Development Plan (Maidstone Borough-Wide Local Plan 2000 and South East Plan 2009) and there are no overriding material considerations to indicate a refusal of planning consent.

Agenda Item 14

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/08/2323

GRID REF: TQ7455

LAND AT 113, 115 AND 123,
TONBRIDGE ROAD, MAIDSTONE.



This copy has been produced specifically for Planning and Building Control Purposes only. No further copies may be made. Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationary Office ©Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. The Maidstone Borough Council No. 1000019636, 2009. Scale 1:1250



Alison Broom
Director of Prosperity and Regeneration

APPLICATION: MA/08/2323 Date: 21 November 2008 Received: 16 February 2009

APPLICANT: Wealden Homes

LOCATION: LAND AT 113 AND 115 AND 123, TONBRIDGE ROAD, MAIDSTONE, KENT, ME16 8JS

PARISH: Maidstone

PROPOSAL: Demolition of existing building and erection 1no. detached dwelling and 12no. two-storey terraced dwellings in four blocks and associated works including access and parking in accordance with the heads of terms as received on the 12 December 2009, plans numbered P030-03; P030/04; P030-05; P030-05; P030-06; P030-07; P030/012; P030-013; P030-15; P030/016; P030-017; P030-018; P030-19; P030-020; P030-021; P030-022; P030-023; P030-024; P030-025; P030-26; P030-027; P030-028; P030-030; P030-031; P030-032 as received on the 11 November 2009, and design and access statement and noise assessment. received on the 25 November 2008.

AGENDA DATE: 25th February 2010

CASE OFFICER: Chris Hawkins

The recommendation for this application is being reported to Committee for decision because:

- Councillor Schnell and Councillor Beerling have requested it be reported for the reason set out in the report

POLICIES

Maidstone Borough-Wide Local Plan 2000: ENV6, T13, CF1
South East Plan 2009: CC4, NRM11, T4, CC1, T4, H5, W1, W6, BE1
Government Policy: PPS1, PPS3, PPS9, PPG13, PPG24

HISTORY

MA/08/0900 Land at 113, 115 and 123 Tonbridge Road, Maidstone, Kent. Demolition of existing building and erection of fourteen new dwellings with new access and landscaping – Refused – Appeal Dismissed.

This application was refused on the following grounds: -

- 1) The proposed development, by virtue of its design, height, bulk and layout would fail to provide a high quality, or inclusive design and, together with the excessive levels of hard surfacing, lack of soft landscaping, layout, materials and design would result in a development which fails to engender a sense of place, or create a high quality, distinguishable form of development which would therefore fail to respect the prevailing character of the area, and the context of the site, as such would prove contrary to PPS1, The Kent Design Guide and Policy QL1 of the Kent and Medway Structure Plan 2006.
- 2) The proposed development, by virtue of the height of the proposed units (numbered 4-11) and their proximity to, and relationship with the neighbouring properties, would result in a significant level of overlooking, severely detrimental to the amenities that the occupiers of these properties currently enjoy, contrary to Kent and Medway Structure Plan 2006.

Details about the Inspector's decision are to be found within the main body of the report, with a copy of the decision appended.

Other relevant history: -

MA/03/1141 113 Tonbridge Road, Maidstone, Kent. Erection of a two storey side extension – Approved.

There is no other planning history relevant to this application.

1.0 CONSULTATIONS

1.1 Maidstone Borough Council Environmental Health Officer was consulted and assessed the following matters: noise, land contamination, dust and amenity. He noted that a noise assessment had been submitted as part of the application, and he concurred with the proposed mitigation measures. He noted that there is no history of contamination, and no reason to suspect that the land would be contaminated. He did however, recommend a condition covering the issues of noise. Informatives were also recommended to be added to any permission

1.2 Maidstone Borough Council Parks and Open Space were consulted and raised no objections to this proposal subject to the provision of a suitable contribution for parks and open space provision, which would be brought about by the additional units proposed within this site. This would total £18,900 and would be spent within a 2mile radius of the application site.

1.3 Kent County Council Highways Authority were consulted and raised no objection to this proposal subject to the imposition of suitable safeguarding conditions. These conditions are set out at the end of this report.

1.4 Southern Water were consulted and raised no objections to this proposal subject to the imposition of suitable safeguarding conditions concerning drainage. This condition is set out at the end of this report.

1.5 West Kent Primary Health Care Trust (PCT) were consulted on this application and raise no objections subject to the receipt of a contribution towards the improvement of existing facilities within the locality, which would be required by the additional demands placed upon these services by virtue of this development. The sum requested to cover this cost is £11,916.

1.6 Kent County Council (Mouchel) were consulted on this application and raised no objections to the proposal subject to the receipt of a contribution towards libraries, adult education, youth and community and adult social services facilities. This contribution would be required on the basis that the units proposed would place additional strain on the existing facilities. It is requested that £227 be provided per dwelling for libraries, £180 per dwelling for adult education, £827 per dwelling for youth and community facilities and £1201 per dwelling for adult social services.

1.7 Southern Gas Networks were consulted and raised no objection to this proposal.

1.8 EDF Energy were consulted and raised no objections to this proposal.

2.0 REPRESENTATIONS

2.1 **Councillor Schnell and Councillor Beerling** requested that this application be taken to Planning Committee on the basis that the proposed development is too great and that the impact of it would be detrimental to the adjoining properties in Upper Fant Road. He also raises concern about the fact that large amounts of rainwater will simply rush into the gardens of Upper Fant Road, by virtue of the levels of hardstanding.

2.1 Neighbouring occupiers were notified and to date thirteen letters of objection have been received. The main concerns raised within these letters are summarised below: -

- The proposal would result in a loss of light to neighbouring occupiers;
- The proposal would result in a loss of privacy;
- The level of hardstanding is excessive;
- The development is out of character with the area;

- There are adequate services within the area to cope with additional families;
- Existing trees were cut down prior to the applications being submitted;
- The height of the buildings would be too great;
- Creating an access onto Tonbridge Road may give rise to highway safety issues;
- The access road would not be adequate for two cars to pass;
- The proposal would give rise to drainage problems;
- The density of the development would be too great;
- Could give rise to problems for the emergency services;
- The impact of the proposal upon wildlife
- The proposal would result in security risks to existing occupiers;
- The proposal would generate noise and disturbance.

3.0 CONSIDERATIONS

3.1 Site Description

- 3.1.1 The application site is located within the urban area of Maidstone, upon the southern side of Tonbridge Road. The application site lies within a predominantly residential area, upon the main Tonbridge Road (A26). It is a site which is considered to be on the fringe of the town centre, with a variety of different types of properties within the locality. Fronting onto Tonbridge Road are a number of substantial, detached properties, which vary in age, as well as scale and bulk. Some of these do rise to three storey, although they are predominantly two storey in height. The widths of plots within this locality are also relatively varied, although there is a good level of separation between the buildings along this particular stretch of road. The site falls away towards Upper Fant Road, by approximately 5metres, and the land then falls away at an even steeper gradient within the rear gardens of Upper Fant Road.
- 3.1.2 The site currently contains a two storey residential property which would be demolished to make way for this proposal. This property is of mid twentieth century construction, and is of no significant merit. The remainder of the land within the application site is formed of gardens of residential properties. The site has a maximum depth of 109metres, and a maximum width of 54metres. The overall site area is approximately 0.4hectares.
- 3.1.3 The area is predominantly residential in character, and although this consists of mainly frontage development, these are particularly long rear gardens (approximately 80metre in depth) and as such it is not inconceivable that there may be future developments of this nature within the locality. Indeed this site has been identified within the as one for potential development within the housing provision assessment recently undertaken as part of the Local Development Framework.

3.2 Proposal

- 3.2.1 The application is for the erection of thirteen new dwellings, consisting of one detached five bedroom property, and 12 terraced properties (within rows of three) which would be three bedroom units.
- 3.2.2 The five bedroom detached property would be located to the front of the application site, and would be two and a half storeys in height. The property would have a maximum width of 9metres, a depth of 10metres, and a maximum height (to ridge) of 9.8metre, and would be of brick built construction, with a tile roof, and would have an integral garage. The property would be set back 12metres from the edge of the highway, with a driveway and turning head provided within the front garden. A brick wall would be provided along its side boundary alongside the proposed access road.
- 3.2.3 The majority of the development would be to the rear of the site, with twelve of the proposed units located here. These would be set out in four blocks of three, with attached garages positioned on either end of each. As all blocks are nearly identical, I will provide an overall description. These properties have an overall width of 16.5metres, a depth of 9.5metres, and a maximum height of 8.8metres. The blocks would be provided with a gable feature positioned relatively centrally, and a porch above each entrance door. These blocks are set out within a T-shaped layout, with a block on either side of the access, one being to the east, one to the west, with two blocks running at 90 degrees to these, at the end of the access road. The density of this development would be 32.5 dwellings per hectare, which is slightly above the figure provided within PPS3 for suitable for new housing development.
- 3.2.4 The access road is to run into the site and then form a large 'hammer head' at the end. This would be constructed of block pavers, with a pavement provided around the edge of the highway. Soft landscaping is also to be provided within the application, details of which are set out within the report below.

3.3 Principle of Development

- 3.3.1 Firstly, I shall address the matter of principle. This site lies within the urban confines, and is the rear gardens of existing properties. As such, the site is classified as brownfield land as specified within Annex B of PPS3, and the principle of developing the land is accepted subject to the assessment of all other material considerations. It is noted that the Inspector did not raise any concern that the principle of development at this site would be unacceptable.

3.4 Planning History

- 3.4.1 As can be seen from the above, a previous application (MA/08/0900) was submitted for the erection of 14 dwellings at the site which was refused on two grounds, as set out above. This application sought to erect a number of three storey properties, set out within a T-shape formation, with a number of the properties backing on to the rear gardens of properties within Upper Fant Road. The properties were proposed to be of a mock Georgian style, with integral garages.
- 3.4.2 The applicant then appealed this decision, but the Inspector agreed with the Council's decision in that the development would have been poorly designed, and would have been at odds with the surrounding development appropriately. The Inspector concluded that the proposal did not *'represent good design which would respect the character and quality of the area or integrate satisfactorily into its surroundings.'* It should also be noted within the Inspector's decision that the proposal had an excessive amount of hardstanding within, which would have been to the detriment of the character of the development as a whole.
- 3.4.3 The Inspector also concluded that the proposal would have had a detrimental impact upon the amenities of the neighbouring occupiers. This was on the basis that the original proposal was for three storey properties, which would have backed on to Upper Fant Road, which is set down at a lower level than the application site. The Inspector noted that there would have been a total of 28 windows at first and second floor windows that would directly face these neighbouring properties. The Inspector concluded that *'notwithstanding the separation distances, this number of windows, together with their height above the existing development would result in over dominance of the gardens making them less pleasant places to be. I therefore conclude that the proposal would be an un-neighbourly development.'*
- 3.4.4 Following on from this decision, the applicant resubmitted a fresh planning application, which again was not considered to overcome the concerns previously raised. As such, further negotiations have been undertaken on the submitted application, with the scheme now before Members the result.

3.5 Layout

- 3.5.1 As one of the grounds for refusal on the previous application was on the basis that the layout was poorly designed, it was important to ensure that this development completely overcame that ground. The site has a narrow access point, with the majority of the land located away from the road frontage. This therefore provides significant constraints in terms of the layout that could be achieved, insofar as there would need to be a relatively long access road into the site, with no scope for development to face onto it. It was therefore considered important to ensure that this access point is dealt with sensitively, and does not appear simply as a large swathe of hardstanding. It was on this basis that the

applicant was advised to demonstrate that a good level of soft landscaping would be provided to soften its appearance, and to reflect the fact that it would be running through an area that was previously rear garden. The applicant has therefore shown a 'kink' in the access road, that would be surrounded by a good level of planting, which would not only provide an element of visual interest, but also soften the development to the rear, when viewed from Tonbridge Road. This is considered to be an appropriate manner in which to address this particular issue.

- 3.5.2 Despite the relatively narrow access point, there is sufficient space on the north-eastern side of the access to erect a single detached dwelling. This would be a two and a half storey detached property, which would be of relatively traditional design. Whilst relatively close to the boundary with the adjacent property to the east, it is not considered that this would appear cramped within the site, and it would respect, and continue the existing building line to the front. As the proposed access road would run parallel to the rear garden of this property, it is important to ensure that there would be no significant noise and disturbance to any future residents, and also that a high quality finish be achieved to this development. It is on this basis that a brick wall would be erected along this boundary.
- 3.5.3 As previously stated, the rear of the site opens up significantly, with a maximum width of approximately 54metres, and a depth of approximately 56.5metres. As one enters the site at this point, it is proposed that there be two rows of three terraced properties on either side of the access, with both provided with a double garage at their northern end and a single attached garage at their southern end. This is considered to represent an appropriate design layout, as this would address the street frontage, with the properties having an appropriate set back from the street so as to not appear overly dominant. The properties would be two storey, and have a central gable feature upon the front elevation. With the garages located at the northern end of each terrace, this would provide a gradual build up in height, and would also ensure that there would not be bland elevations facing towards Tonbridge Road (whilst also ensuring that there would be no overlooking to existing neighbouring properties). All properties would be provided with small, but adequate garden spaces (with a minimum depth of 8metres) which could be accessed from the rear.
- 3.5.4 Two further blocks of three houses are proposed at the rear of the site, which would face back towards Tonbridge Road. These would be of a similar design as other blocks within the site, and again would be set a short distance from the access road. Again, the blocks would be provided with attached garaging, which would be located at their ends. These properties would be two storey and set some 8.5metres from the rear boundary with the properties within Upper Fant Road. It is considered that this form of layout is legible, and would ensure that there are active frontages, and little unusable space.

3.5.5 The road layout has been altered significantly so that the road has become less dominant. Whilst the access has retained a width of at least 4.5metre throughout, as all properties would have a small front garden area, which would be provided with soft landscaping. Whilst in looking at this scheme in isolation it perhaps would be preferable to see a slightly narrower access created, I am aware that there is the potential for further sites at the rear of properties within Tonbridge Road to become available for residential development. Should this be the case, I consider that it be preferable for these to utilise this access, rather than to see the proliferation of new access points created along Tonbridge Road (which is a primary route into and out of Maidstone). It is on this basis that I consider the width of the road acceptable in this instance. Furthermore, the applicant would provide a mixture of permeable surfaces within the site, which would reduce its overall impact.

3.5.6 It is therefore considered that the layout is now of a sufficient standard to ensure that the development would be of a high quality, and to ensure that the road would not dominant. It is therefore considered that the applicant has therefore overcome the Inspectors concerns on this matter, and that the layout conforms with the requirements of the Kent Design Guide.

3.6 Visual Amenity

3.6.1 There are two main issues to consider with regards to the visual amenity, the design of the buildings, and the hard and soft landscaping proposed.

3.6.2 Firstly, the design of the buildings. The proposed dwellings are relatively unremarkable in form, being of brick built construction, with a plain tile roof. Their form is again, simple, with much of the fenestration having a horizontal emphasis, although the dwellings would also have brick banding, and detailing beneath the windows.

3.6.3 The building fronting Tonbridge Road would be the most visible dwelling of those proposed. This is to be a two storey dwelling, with two small flat roof dormer windows proposed within the front and rear roof slopes. This would be a large five bedroom dwelling, with an integral garage. This property has a stronger vertical emphasis than those within the site, but this reflects many of the properties within the street. The street is relatively mixed in terms of property type, both in terms of design and size, and this design, being of a simple form, would not appear incongruous within this varied streetscape.

3.6.4 The properties to the rear of the application site would not be as highly visible from a public vantage point, but the design of any development on this site was clearly considered important by the Inspectorate when forming their previous decision. In this instance, I consider that the design of these properties is of a

size and form that one would expect to see on a backland site within an edge of town centre location. These would be of a brick built construction, again with plain tile roofs. The applicant has created an element of visual interest with a central gable projection and projection porches. It is also suggested that a condition be imposed requiring windows/doors (including garage doors) be recessed a minimum of 70mm in order to ensure that the buildings have a degree of layering – with shadowing creating interest. I would also suggest that it is important to receive precise details of the roof overhang for the same reasons.

- 3.6.5 I am of the opinion that the design of these properties is of a sufficient standard to warrant approval. As stated above, these would not be of any significant merit, but proportionately they are acceptable, and subject to the use of a high quality material, I believe that the dwellings would not detract from the character and appearance of the locality.
- 3.6.6 With regards to the landscaping provision within the site, the applicant has submitted a landscaping plan with this application. This plan would see the planting of Birch, Cherry and Maple trees throughout the application site. It is proposed that two trees be planted to the front of the application site, adjacent to the access point. This would help to soften the hardstanding behind (which is provided for plot 1). This is considered appropriate, and will help to continue the theme along this stretch of road, of tree and shrub planting within front gardens.
- 3.6.7 The planting proposed adjacent to the 'kink' in the access road is also considered to include suitable species for the area. As this site lies within the Maidstone Urban Area as designated by the Landscape Character Assessment, these are considered to be appropriate species for this locality. This area would also contain low level planting which would include Roseacre, Viburnum, and Weigela. Again, this is considered to be acceptable within this location.
- 3.6.8 Soft landscaping to the rear of the site would be limited to the front and rear gardens of the properties, and as such only a small number of trees have been proposed. I consider that this is acceptable on the basis that future owners would wish to attend to their own gardens and maintain them in their own manner.
- 3.6.9 It is proposed that the road be constructed of tarmacadam to a point approximately 75metres into the site. I do not agree that this is acceptable, and as such, suggest a condition that requires a greater proportion of this to be of permeable paving. This is on the basis that it would improve the character and appearance of the development, and also reduce the level of surface run-off, and thus improve the sustainability of the site. I would suggest that no more than the first 10metres be constructed of tarmacadam. To the rear of the site it is proposed that block pavers be used within the highway, and parking area, which

is considered to be acceptable (subject to details). As such, I am therefore of the opinion that the development would have an acceptable appearance, with both the design of the buildings, and the landscaping provision of a suitable quality to warrant approval in this instance.

3.7 Highways

- 3.7.1 Kent County Council Highways Authority were consulted on this application, and have raised no objections to the proposal, on the basis that the access into and out of the site is adequate, and that there is suitable car parking provision within the development. Whilst this is an access onto a primary route into and out of Maidstone (A26) no concern has been raised, as suitable visibility splays have been achieved on either side of the access. It is also noted that no objection was previously raised on the refused application to the point of access, which has remained unchanged. It is therefore considered to be unreasonable to seek to refuse this application on this basis.
- 3.7.2 Pedestrian access into the site is also considered to be of a sufficient standard, with a new pavement running alongside the access road. This is considered to be of a suitable design.
- 3.7.3 The parking provision within the site would amount to 2 spaces per unit. As these are substantial properties, and due to the fact that this is an edge of town location, it is not considered that this would prove to be an excessive level within this site. I am also of the opinion that should future residents park upon the highway, this would be unlikely to give rise to highway safety concerns. Furthermore, there are strict parking controls along Tonbridge Road, which further restricts parking. As Members are aware, this Authority does not have minimum parking standards, and the provision currently shown is below the maximum adopted and on this basis there would be no grounds to refuse this application on the level of parking.
- 3.7.4 The applicant has demonstrated that a refuse vehicle could enter and leave the site in a forward gear, as turning circles have been shown.
- 3.7.5 The applicant has demonstrated that they would be willing to make a contribution of £5,000 to see the improvement of the existing bus stops facilities within the locality of the site. This could be spent on raising the kerb, or to provide real time bus information, to ensure that this is a more attractive option for local residents, which may see the further use of this mode of public transport. This would improve the sustainability of this site.
- 3.7.5 As such, for the reasons above, it is considered that this proposal would not give rise to highway safety concerns and on this basis it is recommended that there are no grounds to refuse the application on this basis.

3.8 Residential Amenity

- 3.8.1 One of the previous grounds for refusal on this site was the impact that the proposal would have had on the properties to the rear of the site, within Upper Fant Road. The main concern at this point being the fact that three storey properties were proposed, close to the rear boundary with these neighbouring properties. This application would see the erection of two storey properties, throughout the whole site, and as such the height, and relationship between the proposed and existing would be somewhat altered.
- 3.8.2 The properties at the rear of the site (blocks 2 & 3) would now be set some 8.5metres from the rear boundary, and this, together with the reduction in height (from three to two storey) would ensure that there would be no significant overlooking of these neighbouring properties, despite the topography of the adjacent land. I therefore conclude that this previous ground for refusal has been overcome.
- 3.8.3 All other properties within the development would be orientated in such a way as to ensure that there would be no overlooking, or loss of light to neighbouring occupiers. Whilst both blocks 1 and 4 would be orientated with their rear elevations facing the back gardens of existing properties, these would be towards the rear of extensive gardens (in excess of 75metres in length) and as such would not impact upon the immediate amenity of the neighbouring occupiers.
- 3.8.4 The proposal would not result in any significant loss of light, or have an overbearing impact upon the existing residential properties due to their distance from them. All proposed properties to the rear of the site are in excess of 30metres from existing dwellings. In addition, plot 1 would be positioned in such a way to ensure that there would be no impact upon the neighbouring property, as it would be alongside the side elevation, which contains no windows.
- 3.8.5 Whilst the access road into the site is proposed to be in close proximity to 123 Tonbridge Road, I am of the opinion that should the applicant provide an acoustic fence along this elevation (alongside the property – not up to the highway) the impact would be reduced. Whilst this access road would serve up to 12 dwellings, it should also be noted that the impact upon noise and disturbance to the occupiers of this dwelling was not considered to be a ground for refusal on the previous application, and was not a matter of concern raised by the Inspectorate. I do not therefore consider that any impact upon the occupiers of this property would be such as to warrant a ground for refusal.
- 3.8.6 In conclusion, I consider that the proposal would not have a detrimental impact upon the amenities of the neighbouring occupiers, both in terms of overlooking,

overshadowing, or the creation of a sense of enclosure. Likewise I do not considered that noise and disturbance to neighbouring occupiers would be so great as to warrant a refusal of this planning application.

3.9 Ecology

3.9.1 As the site is currently used as garden space, with much of the site overgrown at the point of my visit, I would conclude that there might be the possibility of a reasonable level of biodiversity throughout the site. The applicant has not submitted any ecological study, however, and no information has been provided to me to demonstrate that any protected species are located within the site. However, I would suggest it appropriate to impose a condition requesting that an ecological study be undertaken prior to the development commencing, in order that any necessary mitigation measures be undertaken.

3.9.2 There are no significant trees within the site (many were removed prior to the submission of the first application) and as such it is not considered that the proposal would have any detrimental impact upon breeding birds within the locality. Likewise, there is no evidence of bats using the site. I do however, consider it appropriate to suggest that swift bricks be used within the development, and likewise bat boxes be implemented, by way of an informative.

3.9.3 In conclusion, whilst clearly the loss of the whole garden for residential development would have an impact upon ecology, I do not considered that this would result in a ground for refusal, subject to suitable conditions and informatives being imposed.

3.10 Heads of Terms

3.10.1 The applicant has been informed of the requirements to provide certain contributions which would be generated by this proposal. The applicant has agreed to make the following contributions to the development: -

- Primary Care Trust: £11,916
- Maidstone Borough Council (Parks and Open Space): £18,900
- Kent County Council (Mouchel): £29,220
(this is for libraries, adult education, youth and community and adult social services)
- Kent Highway Services: £5,000
(this is to improve nearby bus stop)

3.10.2 The applicant has therefore demonstrated that they are willing to meet all contributions within this site, that has been requested of them, and as such it is considered that this complies with the policies within the Development Plan. It will be necessary for the applicant to enter into a legal agreement with this

Authority however to ensure that these contributions are received at the appropriate point of the development. It has been agreed with the applicant that 50% of the contributions be paid at the completion of the 7th unit, with the full, and final contribution to be made following the sale of the final unit within the development. This is considered acceptable on the basis that it does provide the applicant with more financial flexibility in what are tough financial circumstances, but will also ensure that the money can be spent once fully occupied.

3.11 Other Matters

3.11.1 The applicant has demonstrated that they are willing for the properties to achieve Level 3 of the code for sustainable homes. This is in accordance with policy C4 of the South East Plan. It is therefore suggested that a condition be imposed requiring a *minimum* of level 3 being achieved.

3.11.2 Concern has been raised about the potential for flooding within the application site. The applicant will therefore be subject to strict conditions to ensure that the development does not overburden the existing sewer network, and to ensure that there would not be a significant level of run off onto the main Tonbridge Road.

3.11.3 No details of any new lighting within the site have been submitted to date, and as such, I would seek to impose a condition requiring the applicant to submit details of any street lighting prior to the development commencing, to ensure that there would be no detrimental impact upon the amenities of the existing neighbouring occupiers.

3.11.4 The applicant has submitted a noise survey, which is considered to demonstrate that the property to the front of the site can be designed in such a way that there would be no concerns with regards to road noise for any future occupiers. It is recommended that should permission be given, a condition be imposed to ensure that the appropriate mitigation measures are undertaken.

4.0 Conclusion

4.1 It is therefore considered that the proposal would constitute a good standard of development, and would not adversely impact upon the character and appearance of the locality. The proposal has been designed in such a way as to result in no significant impact upon the amenities of the neighbouring occupiers. It is therefore considered that the previous grounds for refusal have now been overcome, and it is on this basis that I am recommending that Members give this application favourable consideration, and give delegated powers to the Development Control Manager to grant planning permission subject to the receipt of a Section 106 legal agreement addressing the heads of terms set out above, and the conditions and informatives .

RECOMMENDATION

Prior to the completion of a legal agreement in such terms as the Head of Legal Services may advise to secure: -

Subject to:

- i) A contribution of £11,916 (plus any legal costs) to the NHS West Kent Primary Care Trust.
- i) A contribution of £18,900 for parks and open space, which would be spent within a 2 mile radius of the application site.
- ii) A contribution of £29,220 for contributions towards Adult Education, Libraries, and Youth and Community facilities within the locality of the application site.
- iii) A contribution of £5,000 for the improvement of the existing public transport facilities.

I be GIVEN DELEGATED POWERS to GRANT PLANNING PERMISSION subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission;

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development shall not commence until, written details and samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the Local Planning Authority and the development shall be constructed using the approved materials;

Reason: To ensure a satisfactory appearance to the development in accordance with PPS1.

3. The development shall not commence until, details of the proposed slab levels of the buildings and the existing site levels have been submitted to and approved in

writing by the Local Planning Authority and the development shall be completed strictly in accordance with the approved levels;

Reason: In order to secure a satisfactory form of development having regard to the topography of the site in accordance with PPS1.

4. The development shall not commence until, details of all fencing, walling and other boundary treatments have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details before the first occupation of the buildings or land and maintained thereafter;

Reason: To ensure a satisfactory appearance to the development and to safeguard the enjoyment of their properties by existing and prospective occupiers in accordance with PPS1 and PPS3.

5. The approved details of the parking/turning areas shall be completed before the commencement of the use of the land or buildings hereby permitted and shall thereafter be kept available for such use. No development, whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 as amended by the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2008 and the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any order revoking and re-enacting that Order, with or without modification) or not, shall be carried out on the areas indicated or in such a position as to preclude vehicular access to them;

Reason: Development without adequate parking/turning provision is likely to lead to parking inconvenient to other road users and in the interests of road safety in accordance with PPG13.

6. Notwithstanding the details shown on the submitted plans, no development shall take place until precise details of the surfacing of the access road into the site (with a maximum of 10metres being constructed of tarmacadam at the point of access, with the remainder being block pavers) have been submitted to, and approved in writing by the Local Planning Authority. Such details as are submitted shall be completed before the first occupation of any residential units (with the exception of plot 1).

Reason: In the interests of visual amenity, and to reduce the level of surface water run off to surrounding land, in accordance with PPS1.

7. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping, using indigenous species which shall include indications of all existing trees, hedgerows and boundary planted areas on the land, and details of any to be retained, together with measures for their protection in the course of development in conjunction with the details required pursuant to condition 8, and a programme for the approved scheme's implementation to include the planting of the southern boundary landscaping in the first planting season following commencement of the development and the scheme's long term management. The scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment and Landscape Guidelines. The submitted details shall include inter-alia full consideration of the protection of potential slow worm habitats in and around the marginal boundary areas during construction. The approved protection measures shall be implemented before any equipment, machinery or materials are brought onto the site and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed, nor fires lit, within any of the areas protected in accordance with this condition. The siting of barriers/ground protection shall not be altered, nor ground levels changed, nor excavations made within these areas without the written consent of the Local Planning Authority;

Reason: No such details have been submitted and in the interests of the visual amenities of the locality, the safeguarding of existing trees, hedgerows, boundary planted areas and potential slow worm habitats to be retained in accordance with Policy ENV6 of the Maidstone Borough Wide Local Plan 2000 and PPS1 and PPS9, and the interests of the residential amenity in accordance with policies CC1 and CC6 of the South East Plan 2009 and PPS1.

8. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation;

Reason: To ensure a satisfactory setting and external appearance to the development in accordance with Policy ENV6 of the Maidstone Borough Wide Local Plan 2000, and PPS1.

9. No development shall take place until details of any lighting to be placed or erected within the site have been submitted to and approved in writing by the Local

Planning Authority. The submitted details shall include, inter-alia, details of measures to shield and direct light from the light sources so as to prevent light pollution. The development shall thereafter be carried out in accordance with the subsequently approved details.

Reason: To prevent light pollution in the interests of the character and amenity of the area in general pursuant to Policy ENV49 of the Maidstone-Wide Local Plan 2000.

10. Removal of existing trees or hedgerows containing nesting birds shall take place outside of the bird-breeding season (generally March to August).

Reason: To ensure the protection of biodiversity on the site, in accordance with PPS9.

11. No development shall take place until details in the form of large scale drawings (at a scale of 1:20 or 1:50) of the following matters have been submitted to and approved by the Local Planning Authority;

- i) Details of the roof overhangs.
- ii) Details of windows and doors and recesses/reveals (which shall be a minimum of 70mm).
- iii) Details of the soldier arches.

The development shall thereafter be undertaken in accordance with the subsequently approved details.

Reason: To ensure a satisfactory external appearance to the development in the interests of the visual amenity and character of the surrounding area in accordance with PPS1.

12. No development shall take place (with the exception of plot 1) until details of an acoustic fence of a height of no less than 1.6 metres to be erected along the western boundary, adjacent to 123 Tonbridge Road have been submitted and agreed in writing by the Local Planning Authority. Any fence agreed shall be erected prior to the first occupation of any of plots 2-13 as shown on the submitted plans.

Reason: In the interests of residential amenity in accordance with PPS3.

13. The development shall be carried out in accordance with the requirements of the noise assessment submitted to the Local Planning Authority on the 25 November

2008.

Reason: In the interests of the residential amenities of the future occupiers in accordance with PPS3.

14. The dwellings shall achieve Level 3 of the Code for Sustainable Homes. No dwelling shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 3 has been achieved.

Reason: to ensure a sustainable and energy efficient form of development in accordance with policy CC4 of the South East Plan 2009, Kent Design 2000 and PPS1.

Informatives set out below

Attention is drawn to Sections 60 and 61 of the Control of Pollution Act 1974 and to the Associated British Standard Code of practice BS5228:1997 for noise control on construction sites. Statutory requirements are laid down for control of noise during works of construction and demolition and you are advised to contact the Environmental Health Manager regarding noise control requirements.

Clearance and subsequent burning of existing woodland or rubbish must be carried out without nuisance from smoke, etc. to nearby residential properties. Advice on minimising any potential nuisance is available from the Environmental Health Manager.

Plant and machinery used for demolition and construction shall only be operated within the application site between 0800 hours and 1900 hours on Mondays to Fridays and between 0800 hours and 1300 hours on Saturdays and at no time on Sunday and Bank Holidays.

No vehicles may arrive, depart, be loaded or unloaded within the general site except between the hours of 0800 and 1900 Mondays to Fridays and 0800 and 1300 hours on Saturdays and at no time on Sundays or Bank Holidays.

Adequate and suitable provision in the form of water sprays should be used to reduce dust from demolition work.

The developer shall implement a scheme for the use of wheel cleaning, dust laying and road sweeping, to ensure that vehicles do not deposit mud and other materials on the public highway in the vicinity of the site or create a dust nuisance.

The importance of notifying local residents in advance of any unavoidably noisy operations, particularly when these are to take place outside the normal working hours is advisable.

Where possible, the developer shall provide the Council and residents with a name of a person and maintain dedicated telephone number to deal with any noise complaints or queries about the work, for example scaffolding alarm misfiring late in the night/early hours of the morning, any over-run of any kind.

Provision should be made for the separate storage of recyclables from household waste. Advice on recycling can be obtained from the Environmental Services Manager.

There shall be no burning of waste materials on site.

The proposed development, subject to the conditions stated, is considered to comply with the policies of the Development Plan (Maidstone Borough-Wide Local Plan 2000 and South East Plan 2009) and there are no overriding material considerations to indicate a refusal of planning consent.

REASON FOR APPROVAL

The proposed development, subject to the conditions stated, is considered to comply with the policies of the Development Plan (Maidstone Borough-Wide Local Plan 2000 and Kent Structure Plan 1996) and there are no overriding material consideration to indicate a refusal of planning consent.

App 1
MA/08/2323



Appeal Decision

Site visit made on 6 January 2008

by **Sheila Holden**

BSc MSc CEng MICE MRTPI FIHT

an Inspector appointed by the Secretary of State
for Communities and Local Government

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email:enquiries@pins.gsi.gov.uk

Decision date:
13 February 2009

Appeal Ref: APP/U2235/A/08/2083366

113,115 & 123, Tonbridge Road, Maidstone, Kent ME16 8JS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Justin Crane against the decision of Maidstone Borough Council.
- The application Ref MA/08/0900, dated 2 May 2008, was refused by notice dated 5 August 2008.
- The development proposed is demolition of 115 Tonbridge Road and erection of replacement detached dwelling; creation of new access road with landscaping to serve thirteen town houses on land rear of 115, 113 and 123 Tonbridge Road, Maidstone.

Decision

1. I dismiss the appeal.

Main Issues

2. The main issues are the effects of the proposed development firstly, on the character and appearance of the area and secondly, on the living conditions of occupants of nearby dwellings in relation to overlooking.

Reasons

Character and appearance

3. The south side of Tonbridge Road is characterised by large detached properties well separated from one another and sited in substantial plots. The very long rear gardens back onto Upper Fant Road, a street which is characterised by more modest semi-detached houses in well-proportioned plots.
4. Government policy, including that set out in Planning Policy Statement 3: *Housing* is to encourage the efficient use of previously-developed land within settlement boundaries. The appeal site, which comprises the whole of the curtilage of No 115 and part of the rear gardens of the adjoining properties, is in a sustainable location and there is no objection in principle to more intensive use of it. However, higher densities should not be achieved at the expense of the local environment.
5. The proposed layout would introduce buildings of significant mass and bulk into a backland area surrounded by existing gardens. The proposed design, which is predominantly blocks of three storey town houses with integral garages, is described the appellant in the Statement of Case as being in the neo-Georgian style. Such design and massing would be unacceptably at odds with the

established character and appearance of the area which comprises early to mid 1900s dwellings, the majority of which are two storeys in height with occasional individual buildings which are three storeys. The access road and extensive areas of block paving would dominate the overall layout of the development and provide few opportunities for landscaping. The proposal would be an impermeable cul-de-sac with buildings arranged around its far end. It would not otherwise connect with or relate to its surroundings. Whether or not the road could serve a more comprehensive development of a larger area is not a matter for me to consider in the context of this appeal.

6. The relationship between the buildings and their plots would be significantly different from those which prevail elsewhere in the locality and in my view would lead to the site appearing cramped. The rear elevations of two of the proposed blocks would be only 8m from the rear boundaries of the properties in Upper Fant Road. These blocks would be three stories in height on ground which is well above this road and above the ridge height of the properties along it. These terraces would therefore be visible from the surrounding area and appear overbearing both from the houses, their gardens and Upper Fant Road itself.
7. Taken together I consider these factors demonstrate that the proposal does not represent good design which would respect the character and quality of the area or integrate satisfactorily with its surroundings. For these reasons I conclude that the development would be harmful to the character and appearance of the area, contrary to government guidance set out in Planning Policy Statement 1: *Delivering Sustainable Development* and Policy QL1 of the Kent and Medway Structure Plan which seek high quality design in all new development.

Living conditions

8. At present the houses in Upper Fant Road back onto the open rear gardens of the houses in Tonbridge Road. The rear elevations of the two proposed terraces of houses would contain a total of 28 windows at first and second floor level which would directly face these properties. Notwithstanding the separation distances, this number of windows together with their height above the existing development would result in over dominance of the gardens making them less pleasant places in which to be. I therefore conclude that the proposal would be an un-neighbourly development which would be harmful to the living conditions of occupants of these houses contrary to Policy QL1 of the Structure Plan which seeks to protect residents from the adverse consequences of development.

Conclusions

9. For these reasons, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Sheila Holden

INSPECTOR

APPLICATION: MA/09/1514 Date: 21 August 2009 Received: 14 January 2010

APPLICANT: Gallagher Properties Ltd

LOCATION: LEDIAN FARM, UPPER STREET, LEEDS, MAIDSTONE, KENT, ME17 1RZ

PARISH: Leeds

PROPOSAL: Outline application for the erection of 64 bed residential care home with 7 close care bungalows, day centre with 6 close care apartments, conversion of Ledian Oast to provide two dwellings and erection of 12 dwellings with access and garaging. With access considered across the site at this stage and appearance, layout and scale to be considered in respect of the 12 dwellings and oast conversion. Landscaping reserved for future consideration across the site as shown on drawing nos. 507/2115/02, 07/69/SK/201, 202, 203, 204, 205/revC, 206/revA, 207revA, 208, 209, 210revA, 211revA, 212, 213revA, 214revA, 215, 216revA, 217, 218, 219, 220, 221, 222, 223revA, 224,225, 235revA, 236revA, 237revA, 238revA, 239revA, 240revA, 241revA, 242revA, 243revA, 244revA, 245revA, 246revA, 247revA, 270, 271, 272, planning statement, design and access statement, Travel Plan framework for care home, Transport Assessment, Arboricultural Assessment, Badger survey and report, Bat survey and report, Herpetile survey and report and Contamination study received 24/08/2009, drawing nos. 07/69/100A (Development proposals) 07/69/100A (Reserved matters boundary plan), 07/69/01, 07/69/02, 07/69/SK/248 received 25/09/2010 as amended by letter dated 13 January 2010, drawing no. T0023/SK001/A1 (swept path analysis layout), Care Home Interim Travel Plan, drawing nos. 07/69101revA, 07/69/SK/249revA, 07/69/03revA and Clarification of ecology reports (prepared by Wild Thing) received 14/01/2010.

AGENDA DATE: 25th February 2010

CASE OFFICER: Steve Clarke

The recommendation for this application is being reported to Committee for decision because:

- It is contrary to views expressed by Leeds Parish Council

POLICIES

Maidstone Borough-wide Local Plan 2000: ENV6, ENV45, H26, H27, T13, T23, CF1
South East Plan 2009: SP2, CC1, CC4, CC5, CC6, H3, H4, H5, T4, T5, NRM1, NRM5,
NRM11, BE5, BE6, S6, AOSR6, AOSR7
Village Design Statement: Not applicable
Government Policy: PPS1, PPS3, PPS4, PPS7, PPS23, PPG13, PPG15

1: HISTORY

- 1.1 The site has a number of businesses currently operating in approximately 22 units created from the former agricultural buildings on the site. The uses include a number of car repair, metal working storage and office uses. The existing uses are not subject to hours of use or days of use restrictions. The most relevant planning history is set out below.

MA/08/1523: Decommissioning and complete removal of existing base station and relocation to open land to the west, of a 15 metre lattice tower including head frame with 3 sector antenna, equipment housing and ancillary works. APPROVED 19/09/2008

MA/04/1591: External alterations to existing building, comprising of installation of 4 no. roller shutter doors, 4 no. access doors and other alterations: APPROVED 03/02/2005

MA/95/1639: Prior notification of telecommunications development for the erection of a 15 metre high tower together with associated equipment cabin 2 microwave dishes and aerial: APPROVED 06/12/1985

MA/85/0609: Continuation of use of buildings for vehicle repairing, light industrial and ancillary purposes: APPROVED 26/02/1986

MA/85/0606: (Units 8a, 8b & 8c) Replacement of building with temporary single garage for storage and two single storey workshops, extension of garden to Ledian Farmhouse: APPROVED 05/03/1986

MK/2/72/0535: Erection of 13 new houses and garages and conversion of existing building into 5 flats: WITHDRAWN 25/12/1972

2: CONSULTATIONS

2.1 Leeds Parish Council:

- 2.1.1 "The Parish Council held an Open Day for the village to view this Planning Application at Ledian Farm and were invited to make their observations. This was an unusual step but it was felt one that should be taken in view of the size of the potential development which exceeds the recommendations contained within the Leeds Parish Plan completed last year.

2.1.2 The meeting was very well attended and provided the planning committee with an insight into the views of the residents. It should be noted that the majority view was that the development, as proposed, was welcomed in theory. It was considered an improvement to "what is there now".

2.1.3 However there were concerns and we highlight those.

1. Leeds village, has exceptional parking problems, nearly all properties in Upper Street, which is the B2163, have no off street parking and have to use the main road. The problem has been exacerbated by the new Abbots development (previously called Ledian Court). The Ledian Court application allowed for parking spaces at 1.4 per residence. Whilst we note that this is within planning guidelines, it is clear that in a rural community with a woeful public transport and no communal parking nearby this is not adequate. We note that this application for full planning consists of mainly 3-4 bedroom houses, which would assume will be purchased by families and who in all probability will have at least 2 cars and therefore adequate off street parking should be provided. Parking for the day centre, 64 bed care home and bungalows only allows of 32 planned car parking spaces which we feel is inadequate, and will not accommodate employees, residents and visitors. What we request is more than enough parking on the site so that Upper Street is not used as overflow.

2. We note that studies have been carried out in respect to existing traffic flows, to and from the site. It is suggested that there will be NO increase in traffic volume. We do not concur with this finding. We believe this development WILL increase traffic flow within the village and as there are no current plans for a Leeds-Langley Bypass or South East Maidstone Strategic Route – we have grave concerns on the grounds of safety and environmental issues. Our village cannot cope with the traffic volume as it is.

3. Full planning permission is requested for 12 new houses, whilst we do not have any objections in terms of general aesthetics we do have reservation in respect to the height and form of some of the three storey houses, we feel that these are out of scale with the surrounding existing buildings.

2.1.4 Although we have no objection with the concept of this development, we do have reservations on a number of issues. Therefore we **object** to the application and wish it to go before the planning committee in order for our views to be taken into consideration."

2.1.5 The Parish Council have reiterated their previous objections following consideration of the additional details received on 14 January 2010.

2.2 **English Heritage:** Do not wish to offer any comments and state that the application should be determined in accordance with national and local policy guidance and on the basis of the Council's specialist conservation advice.

2.3 **Natural England:** Originally objected to the proposals due to inconclusive information relating to bats and great crested newts and the potential impact of the development on these protected species.

- 2.3.1 In response to additional survey information supplied by the applicants on 14 January 2010 as a result of this objection, the following further comments were made on 21 January 2010.
- 2.3.2 **Bats:** The survey information provided by the applicants indicates that Pipistrelle bats are present within the application site. The indicative proposals set out in the application, however, appear sufficient to mitigate any potential impacts on bat populations. Therefore, subject to the condition listed below, Natural England is satisfied that these proposals should not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range (as defined in Regulation 44 of the Habitat Regulations).
The following condition is required to ensure that development does not breach English or European legislation.
- It is possible that bats may be using the site and as such, should the Council be minded to grant permission for this application we would request that the following informative is appended to any consent: '*Should any bats or evidence of bats be found prior to or during works, works must stop immediately and a specialist ecological consultant or Natural England contacted for further advice before works can proceed*'. All contractors working on site should be made aware of it and provided with Natural England's contact details.
- 2.3.3 **Biodiversity Enhancements:** This application has many opportunities to incorporate features into the design which are beneficial to wildlife such as the incorporation of roosting opportunities for bats, the installation of bird nest boxes or the use of native species in the landscape planting, for example. As such we would recommend that should the Council be minded to grant permission for this application, measures to enhance the biodiversity of the site are secured from the applicant. This is in accordance with Paragraph 14 of Planning Policy Statement 9. Additionally, we would draw your attention to Section 40 of the Natural Environment and Rural Communities Act (2006) which states that 'Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'. Section 40(3) also states that 'conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat'
- 2.3.4 **Great crested newts:** Natural England is satisfied that the survey information provided by the applicants suggests that no great crested newts are present within the application site or utilising ponds or terrestrial habitat that are to be affected by the proposals. Consequently, we have no comments to make in relation to these species at present.
- 2.3.5 **Widespread Reptiles:** The survey information provided by the applicants indicates that widespread reptiles are present within the application site. The proposals set out in the application, however, appear sufficient to mitigate any potential impacts on local reptile populations. Therefore, Natural England is satisfied that these proposals will not be detrimental to the population of reptiles, subject to the condition listed below.
- Prior to the commencement of any works which may affect widespread reptiles or their habitat, a detailed mitigation strategy shall be submitted to, and approved in writing by the Local Planning Authority. All works shall then proceed in accordance with the approved strategy with any amendments agreed in writing.
- 2.3.6 **Badgers:** Natural England is satisfied that the survey information provided by the applicants demonstrates that no badgers are present within the application site or

utilising features within the application site that are to be affected by the proposals. We support the mitigation recommendations made in the survey submitted to ensure existing hedgerows are retained where reasonably practical. Consequently, Natural England has no further comments to make in relation to this species at present.

- 2.3.7 **Summary and conclusions:** Based on the information provided, **Natural England has no comments to make at present** regarding protected species subject to the conditions described above.”
- 2.4 **Kent Wildlife Trust:** Comment that established hedgerows stand along the northern and southern boundaries of this site and that the submitted ecological assessment reports testify to their importance to local biodiversity. In order to satisfy PPS9 regional and local policy it is stated that these features are retained along with an open buffer with the application site. The trust commends the hedgerow and insect attracting planting suggestions contained in the bat report. Subject to appropriate conditions requiring these features to be designed, implemented and maintained, the Trust has no objection to grant of outline planning permission.
- 2.5 **KCC Heritage Conservation:** Have commented that the site lies on the edge of the medieval village of Leeds and that Ledian Farm itself dates back to the C16th and may hold traces of earlier settlements too. The early medieval to post-medieval Leeds Priory complex is a Scheduled Monument and lies 300m north west. They have therefore requested a condition requiring a programme of archaeological work be imposed on any permission.
- 2.6 **KCC (Mouchel):** Have requested contributions towards the provision of services to meet the additional demand generated by the development as follows: Libraries (£227/dwelling), Adult Education (£180/dwelling), Youth & Community (£206.75/applicable flat and £827/applicable house) and Adult Social Services (£1201/dwelling).
- 2.7 **KCC West Kent Adult Social Services:** “KASS have no objection to this scheme. However, I would like to sound a word of caution to the developer. The Maidstone area is already supplied with an ample mix of residential care services and the objective of KASS is to help adults to remain in their own homes for as long as possible, so they can continue to integrate within their local community. Community resources are encouraged.”
- 2.8 **Kent Highway Services:**
- 2.8.1 “I refer to the above planning application. The application comprises a 64 bed care home plus 7 close care bungalows and a day centre with 6 close care apartments. Also proposed are 14 dwellings, comprising 10 x 3 bedroom houses, 2 x 4 bedroom houses and 2 with an unknown number of bedrooms.
- 2.8.2 Traffic generation from the development has been assessed using the TRICS database and this has been compared against the existing vehicle trips to and from the site. The

results indicate that the application would result in fewer vehicle trips within the highway peak hours with a marginal increase in the daily trips.

- 2.8.3 The existing access to Ledian Farm off the B2163 is to be closed and a new access, also onto the B2163, is proposed. The provision of a new access to serve the site is acceptable in principle, however a stage 1 safety audit is required in respect of the proposed new access.
- 2.8.4 The existing access suffers from substandard visibility splays and this serves a number of commercial uses. Visibility splays from the new access are shown as 2.4m x 70m which is acceptable.
- 2.8.5 Parking for the Care Home should be in accordance with the Kent & Medway Parking Standards and residential parking is required in accordance with the Kent Design Guide - Interim Guidance Note 3 - Residential Parking.
- 2.8.6 Cycle parking is required in accordance with the Kent & Medway Vehicle Parking Standards.
- 2.8.7 I confirm that I do not wish to raise objection to this outline application subject to conditions.”
- 2.8.8 The conditions require details of vehicle and cycle parking, details of parking for construction and site operatives’ vehicles and sufficient space of off-road unloading during the course of construction, details to ensure the highway is properly drained, the provision of the visions pays at the site entrance, the closure of the existing site access, wheel washing facilities and the submission of a travel plan.
- 2.9 **West Kent Primary Care Trust (PCT):**
 - 2.9.1 “The PCT has, taken a pragmatic approach and the contribution requested is based on the cost of £120 per person, per dwelling, for a three-year period. The calculation we use to estimate the potential average occupancy is as follows:
 - 2.9.2 1 bed unit = 1.4 persons average occupancy, 2 bed unit = 2 persons average occupancy, 3 bed unit = 2.8 persons average occupancy, 4 bed unit = 3.5 persons average occupancy. Where no details of how many bedrooms are given, we use the national average calculation of 2.34 persons.
 - 2.9.3 Using the above calculation, we estimate that the potential average occupancy for this development would be 70.1persons multiplied by £360 which totals £25,236. The calculations regarding the 64 bed residential care home is calculated as single bed occupancy (unless stated otherwise) and multiplied by £360 which would be £23,040.
 - 2.9.4 The total contribution that the PCT would be seeking under Section 106 would be £48,276 plus our legal costs in connection with securing the Section 106 agreement.”
- 2.10 **EDF Energy:** No objections

2.11 **Southern Water:**

- 2.11.1 Have confirmed that there is currently inadequate capacity in the local network to provide for foul sewage disposal. Additional off-site sewers or improvements to existing sewers will be required to provide sufficient capacity to service the development; S98 of the Water Industry Act 1991 provides a legal mechanism through which the appropriate infrastructure can be requested (by the developer) and provided to drain to a specific location. The Council's building control section or technical staff should be asked to comment on the adequacy of soakaways to dispose of the surface water from the proposed development
- 2.11.2 They request that a condition requesting details of foul sewerage and surface water disposal is imposed on any planning permission and an informative is added requesting the developer to enter into a formal agreement with Southern Water to provide the necessary sewerage infrastructure.

2.12 **MBC Conservation Officer:** Originally commented as follows

- 2.12.1 "I have no objection in principle to the redevelopment of this site as the potential exists for an improvement to the setting of Ledian Farmhouse. However, I do have a number of reservations regarding the scheme as currently put forward.
- 2.12.2 Firstly, whilst I welcome the decision to retain the existing oast house and convert it to two dwellings, there are numerous features included in the design of the conversion which I consider fail to adequately preserve its character. In the first instance, I consider that the kiln roofs should be re-instated to their original design and height, including the cowls. Secondly, I consider the West Elevation to be over-fenestrated, particularly in respect of the three pairs of fully-glazed French doors with their unfortunate horizontally-proportioned glazing pattern. Windows generally, in most cases, are shown to be of an inappropriate design, with direct-glazing to non-opening casements resulting in an asymmetrical appearance, and the new front doors are shown to be of an inappropriate domestic neo-Georgian design. I also have concerns regarding the incorporation of a pair of garages into the body of the building as this will entail the loss of an area of attractive and characteristic chequered brickwork.
- 2.12.3 Secondly, why cannot the access be retained in its existing position immediately to the north of Ledian Farmhouse? It would only need to bend slightly around the retained oast to serve the proposed care home at the rear of the site and the existing ragstone retaining wall and hedgerow along Upper Street which are attractive features of the Conservation Area, defining the street edge, could be retained in their entirety. I also feel that the house proposed to be erected on the site of the existing access (Plot 9) looks rather squeezed in. The same could be said of Plot 7 and in general the scheme suffers from the close juxtaposition of a number of varying house types leading to a somewhat cramped and unco-ordinated appearance."

The following further comments have been received on the revised scheme

- 2.12.4 "The revised plans now submitted address some of my concerns regarding the conversion of the oasthouse, and I am pleased to see that it is now proposed to re-instate the kiln roofs to their original form. Window and door designs have also generally improved, but I note that the 3 pairs of French doors proposed to the west elevation, to which I formally objected, still remain; furthermore, the second garage door on the south elevation also remains – this will result, as I previously pointed out, in the loss of an area of attractive chequered brickwork.
- 2.12.5 Elsewhere, I am pleased to see that the ragstone wall is proposed for re-instatement. However, other matters raised in my previous comments do not appear to have been addressed and remain pertinent.
- 2.12.6 **Recommendation**
It is, therefore, recommended that:
on heritage/design grounds on balance **NO OBJECTION IS RAISED** subject to the following conditions but the developer should be encouraged to achieve a better quality scheme by addressing the above issues and those previously raised.
- 2.12.7 Conditions: Conditions re samples of materials, joinery details, landscaping (including hard surfacing and boundary enclosures) and removal of all pd rights would be appropriate."
- 2.13 **MBC Landscape Officer:**
- 2.13.1 "Site description: Leeds Conservation area is situated along the frontage with Upper Street and extends into the industrial area by a maximum of 20-30 metres.
- 2.13.2 The tree survey (ref 38.82) was carried out in accordance with section 4.2.6 of BS5837:2005 'Trees in relation to construction- Recommendations'.In total 14 groups of trees and 1 individual tree was inspected - the majority of which were categorised as C grade (low quality). Having visited the site I would agree with the findings of this report.
- 2.13.3 The majority of the trees are located on the perimeter of the site and act as screening for the site. It is important to note that G10, G11, G12 and G13 which are located on the southern boundary, are outside the boundary of Ledian Farm. Therefore permission would have to be sought from the landowner if any works were to be carried out.
- 2.13.4 Direct loss of trees: This application only refers to access, appearance, layout and scale of 12 dwellings and Oast Conversion. Drawing 07:69:100A indicates that the entrance will be relocated south of the farm house which will mean the loss of G5 and G6 which consist of Holly and Laurel and both have been allocated as C grade. The removal of these groups of trees will not have a detrimental effect on the amenity value of Leeds Conservation Area. The same drawing shows the majority of trees along the boundary to be retained whilst the trees within the grounds are to be removed.
- 2.13.5 Constraints: The main constraint which has been identified is that of shading as the trees, particularlaly along the southern boundary will increase in height and create excessive shading if rear gardens are place close to the hedge line.

2.13.6 There is potential for the retained hedges to be maintained which will result in a compact hedge thus controlling the height and spread.

2.13.7 Conclusion: The location of the groups of trees do not present any significant constraint on the redevelopment of this site. Where possible it is recommended that the hedgerows are retained to provide screening. Approve subject to conditions

2.13.8 Conditions: Tree Constraints plan which will identify the root protection area. Arboricultural Method statement/ Tree Protection Plan - to ensure any retained trees are successfully integrated into the final lay out."

2.14 **MBC Environmental Health:** "The locality of this proposal makes it very unlikely that transportation noise will be an issue. Contamination is more relevant due to the present and former use, and an assessment has been submitted with the application. Unfortunately this report is a basic report and not in the format which is required to discharge any part of the condition that will be imposed for this application. The executive summary (page 38) does however indicate that further work will be necessary in any case. Therefore a conventional desktop survey is required with the proposed course of action to be followed included."

Recommendation: No objections subject to a contaminated land condition and standard informatives governing conduct and hours of operation on site during construction.

2.15 **MBC Parks & Open Spaces:** "It is clear this development offers no opportunity for provision of on-site public amenity open space. It also exceeds the threshold number of dwellings that makes the development eligible for an off-site contribution. We would therefore request an off-site contribution of £22,050 from the developer the calculation for which is 14 units @ £1575 per unit.

The cost per dwelling is as set out in the 'Supplementary Planning Guidelines' and using Fields in Trust (the former National Playing Field Association) guidelines and cost for the provision of outdoor playing space. The contribution would be used for the enhancement, maintenance and renewal of facilities across Green Space Amenity and Play Areas within a one mile radius of the development."

3: REPRESENTATIONS

Nine letters from local residents and Maidstone CPRE were received as a consequence of the initial neighbour consultation. Views expressed are (summarised) as follows:-

- The application is supported but assurance is requested that the hedge on the southern boundary of the site adjacent to 15 Burgess Hall Drive will be properly maintained.
- What ecological surveys have been undertaken on the site? Will further surveys be undertaken now that polytunnels previously located on part of the site have been removed?

- More vehicle movement into and out of the village.
- Parking problems in Burgess Hall Drive were caused when other development has taken place in the area in the past. The same is likely to occur again.
- The development provides insufficient parking.
- The access onto Upper Street is too narrow and at a narrow section of the B2163 increasing the likelihood of accidents. Sight lines appear insufficient.
- There is an inadequate range of local services in the village to support the development.
- The development is unlikely to increase employment for local residents.
- No further development should be undertaken until the Leeds-Langley bypass has been completed.
- The care home is too large and should be restricted to medical care.
- The houses on Plots 6 & 8 are too high.
- All the houses should be of a dark red brick and red tiled roofs to blend in with the village.

CONSIDERATIONS

4 Site location and description

- 4.1 The application site is located on the west side of the B2163 Upper Street Leeds. It amounts to approximately 2.16ha in area and is roughly rectangular in shape. It has a frontage to Upper Street of approximately 95m and a depth of approximately 230m. The first 130m back from the street frontage to Upper Street lie within the defined village envelope of Leeds village.
- 4.2 The site is currently occupied by a farmhouse and by a number of former agricultural buildings that have over the years been converted into business uses of various types including car repairs/servicing, metal fabrication and offices. None of these uses are subject to hours of days of use restrictions. The site has no employment designation in the Maidstone Borough-wide Local Plan 2000. The rear part of the site is currently land in agricultural use.
- 4.3 The frontage to the site is occupied by Ledian Farmhouse and the existing site access to the north of the farmhouse. The land to the south of the farmhouse comprises its garden and is separated from Upper Street by a ragstone wall surmounted by an existing hedgerow. The wall merges into the banking of the hedgerow at places along the site frontage. Ledian Farmhouse is listed Grade II and is, along with its garden, part of the site access and the dwelling to the north of the site access sited within the Leeds Upper Street Conservation Area. There are other listed buildings located on the eastern side of Upper Street opposite the site and these are also within the Conservation Area.

4.4 To the south of the site lies Burgess Hall Drive an estate of detached and semi-detached dwellings. The houses are separated from the site by public footpath KH245. West of the site and Burgess Hall Drive lies agricultural land predominantly in fruit production although some land is in arable use. The land to the north of the site is also agricultural in nature apart from dwellings fronting Upper Street.

5 Proposals

5.1 The application site is submitted in outline. Permission is sought for the following development:

“The erection of a 64 bed residential care home with 7 close care bungalows, day centre with 6 close-care apartments, conversion of Ledian Oast to provide two dwellings and erection of 12 dwellings with access and garaging.”

5.2 Access for the entire site is to be considered at this stage as are the reserved matters of appearance, layout and scale in respect of the 12 dwellings and the proposed oast conversion. Landscaping is reserved for future consideration across the entire site.

5.3 The development would see the existing buildings on the site, with the exception of the Oast and Ledian Farmhouse demolished.

5.4 A new site access to Upper Street is shown to be provided. This would be located some 35m to the south of the farmhouse. The existing access would be permanently closed-off. The new access is shown to be 5.5m in width and would serve the residential development and the proposed care home development and would then narrow to 3.6m allow access to the agricultural land to the west of the site and the telephone mast that has permission to be relocated to land west of the site. Two 1.8m footways either side of the access road at the bell-mouth are shown for a distance of 10m into the site. A single footway would then serve the residential development and the care home and would be located on the northern side of the access road. Vision spays of 70m x 2.4m x 70m would be provided at the site access.

5.5 The residential element of the development would be located on the part of the site closest to Upper Street. It would see the conversion of the existing oast in the north-west corner into two residential units (one 3-bedroom and one 4-bedroom) and the erection of a further 12 units comprising 8 detached and 4 semi-detached dwellings. In total the new build dwellings would comprise ten 3-bedroom units and two 4-bedroom units. The density of the residential element equates to approximately 24 dwellings/ha.

- 5.6 A total of 32 car parking spaces, a minimum of 2 per dwelling, with plots 4 and 8 (4-bedroom units) having greater provision, plus a double garage and two car parking spaces for Ledian Farmhouse are proposed.
- 5.7 The majority of the residential dwellings would be served off a cul-de-sac off the main site access. However four would face directly onto Upper Street. A pair of semi-detached dwellings to the south of the access, a detached dwelling immediately to its north and a detached dwelling located on the site of the current access to the Ledian Farm complex.
- 5.8 The existing ragstone wall to the Upper Street directly to the front of Ledian Farmhouse would be retained, the remainder of the wall and hedgerow to the south of Ledian Farmhouse would be retained where possible and where removed to provide the new access, would be reinstated returning along either side of the new access road when constructed.
- 5.9 The houses would be built in a mixture of brick-work, tile hanging at first floor level and render. They would have projecting eaves and a variety of window treatments including dormers above integral garages, projecting bays and windows with brick soldier courses/stone cills. A number of roof treatments such as bonnet hips, hipped roofs and projecting gables are also proposed. Some houses have exposed rafter feet.
- 5.10 Plots 5 and 6 (semi-detached) and plot 8 (detached) would have some accommodation in the roof space and are approximately 5.5m and 4.8m to eaves and 10m and 9.4m to ridge respectively.
- 5.11 The remaining dwellings are all two-storeys. They have varying ridge heights ranging from approximately 7.5m to 8.5m and eaves heights ranging from approximately 4.4m-5.5m and are of varying designs to provide interest and vitality.
- 5.12 Details of the oast conversion have also been provided. This is to be converted into two units. The recently received amended plans show the kiln roofs restored and the cowls replaced.
- 5.13 The rearmost section of the site to the west of the residential element is the proposed location of the 64-bed care home, 7 no. close care bungalows and the day centre and 6 close-care apartments. As set out earlier in the report, the access to this element of the proposed development is the only matter for consideration in this application. The stated parameters for the care home, close-care bungalows and the day centre and close-care apartment building are given as follows:-

	Height	Width	Length
--	---------------	--------------	---------------

Care Home	8 and 12m	25-35m	65-75m
Day centre & close-care apartments	8 and 11.5m	15 to 20m	17.5 to 22.5m
Close-care bungalows	3 and 4.5m	6 and 10m	8 and 12m

- 5.14 The close-care bungalows and day centre/close-care apartment building would be located between the main care home and the residential element. 32 car parking spaces to serve this area are indicatively proposed. There is also a staff overflow car park and a service yard indicated to the rear (west) of the care home.
- 5.15 The built element of the development with the exception of overspill staff car parking and an enclosed service yard is contained within the defined 'village envelope.'
- 5.16 To the west of the care home is what is indicated to be a landscaped amenity area with potential for vegetable gardens and exercise walks. An existing foul sewer that crosses the site also needs to be diverted into this area to avoid the indicated illustrative site of the care home building.
- 5.17 The application was accompanied by a planning statement, design and access statement, ecological surveys, arboricultural surveys, a transport assessment and interim travel plan and a desk-top contamination study.
- 5.18 A draft s106 unilateral undertaking has also been prepared and submitted as part of the application. This addresses the requests made on behalf of Kent County Council, West Kent PCT and the Council's Parks and Open Spaces section.

6 Principle of development

- 6.1 The development site clearly constitutes previously developed land. The proposed buildings are also located within the area of the defined 'village envelope.' As stated earlier in the report, the site has no specific employment designation safeguarding it for such purposes. It should also be noted that employment will not be lost on the site entirely as the care home is likely to result in the employment of 64 full-time equivalent staff on the basis that the ratio of staff to residents within the industry is normally one full-time equivalent member of staff per room/bed. Additional jobs would also be supported in associated industries and suppliers. No objections can be raised on 'loss of employment' grounds.
- 6.2 Members are also advised that the care home is considered as economic development as defined in PPS4 (December 2009) as it is employment generating (paragraph 4). In addition Policy CC5 of the South East Plan 2009

encourages provision for an ageing population, which this application will achieve.

- 6.3 Policy H26 of the Maidstone Borough-wide Local Plan 2000 also deals specifically with care homes and nursing homes and sets as number of criteria against which such development should be assessed as follows:-

“(1) THE EXTENT TO WHICH THE PROPOSAL INCLUDES ADEQUATE AMENITY SPACE FOR RESIDENTS AND SUFFICIENT CAR PARKING TO ADOPTED STANDARDS; AND
(2) THE EFFECT ON THE CHARACTER OF THE AREA AND THE AMENITIES OF NEIGHBOURING PROPERTIES; AND
(3) IN THE CASE OF PROPOSALS INVOLVING THE EXTENSION OF EXISTING PROPERTIES, THE EFFECT ON THE CHARACTER OF THE BUILDING AND ITS SETTING; AND
(4) IN THE CASE OF RESIDENTIAL CARE HOMES, THE DEVELOPMENT IS WELL RELATED TO PUBLIC TRANSPORT, SHOPPING AND COMMUNITY FACILITIES”

These criteria are assessed in more detail in the main body of the report below. However I am of the view that the care home will have sufficient amenity space, be provided with adequate car parking and that it will not have an adverse impact on neighbouring properties. In respect of criterion four, the site is on a public transport route. Whilst Leeds village does have some community facilities it is recognised that shopping facilities are limited. However, this is recognised in the draft travel plan which contains measures to reduce reliance on the use of the private car by residents and staff. On this basis I consider that the requirements of policy H26 have been met.

- 6.4 The density of the residential element equates to approximately 24 dwellings/ha. This is below the 30dwellings/ha threshold advised in PPS3. However, given the need to have regard to the setting of the listed farmhouse and the site’s location partially within and adjacent to the Conservation Area, coupled with the desirability of the restoration of the existing oast, I consider that this density is acceptable.
- 6.3 In principle therefore I raise no objections to the development.

7 Design and site layout

- 7.1 The design and site layout of the care home and its associated close-care bungalows and the day centre and apartments are not for determination in this application. An indicative layout has however been provided, which indicates that the day care centre and the bungalows would be located between the care home and the residential development. The parameters set out in paragraph 5.11 indicate that the bungalows would be between 3m and 4.5m in height which I consider to be acceptable. The day centre/care apartment building would be between 8m and 11.5m in height which given its indicative position located in

the centre of the site and the fact that it would provide a transition between the bungalows and the main care home building is also acceptable.

- 7.2 I consider, given the indicated parameters submitted as part of the application and the indicative layout submitted that buildings of the size proposed can be acceptably accommodated on the site.
- 7.3 The care home and its associated buildings will not have an adverse impact of the setting of the adjacent Conservation Area or Ledian Farmhouse. The bungalows are sited approximately 63m from Ledian Farmhouse whilst the day centre is 77m and the care home 100m.
- 7.4 A greater level of detail of the residential element (layout, scale and appearance) has been submitted as part of the application than the care home and associated development elements.
- 7.5 I consider that the development appropriately addresses both Upper Street and the internal access road. Plots 1 and 2 (semi-detached) and Plot 12 address both the Upper Street frontage and the site access road satisfactorily. I also consider that plot 9 (located on the site of the existing access to the site) would, given appropriate floor levels provide an acceptable transition between Ledian Farmhouse and Bay Tree Cottage to its north. The pattern of development on both sides of Upper Street is sporadic providing a mixture of house sizes and also siting relative to the road
- 7.6 Within the site the dwellings are sited to provide an acceptable and varied streetscene. The dwellings on the prominent corner plots (4 and 11) address both roadways.
- 7.7 Every dwelling would have appropriate amenity space associated with it as befits family housing. The smallest garden would be some 9m in length with the remainder between 10m and 15m, with plot 9 having a rear garden of some 20m in depth. There is also space to provide appropriate landscaping to the front gardens of the dwellings.
- 7.8 The dwellings have been designed for the site and take their design cues from elements of the local vernacular, many examples of which can be found in housing elsewhere within the village or locally. The houses would be built in a mixture of brick-work, tile hanging at first floor level and render. They would have projecting eaves and a variety of window treatments including dormers above integral garages, projecting bays and windows with brick soldier courses/stone cills. A number of roof treatments such as bonnet hips, hipped roofs and projecting gables are also proposed. Some houses have exposed rafter feet. The combination of brickwork, tile-hanging and render is changed across the development whilst maintaining a commonality to the approach. The

indicated details such as the exposed rafter feet, projecting bays and the changes to the roof form provide vitality and interest.

- 7.9 Concern has been expressed by the Parish Council that three-storey dwellings are unacceptable. Only three plots have accommodation within the roofspace and these are located on the western side of the section of the internal access road leading towards the converted oast. I do not consider that this will cause harm to the character and appearance of the area and neither will there be any adverse impact on existing dwellings including Ledian Farmhouse.
- 7.10 Turning to the proposed conversion of the oast, the Conservation Officer whilst not objecting to the development and welcoming the reinstatement of the kiln roofs and cowls has expressed concerns regarding the fact that there are three pairs of 'French' doors on the west elevation and also to the loss of some brick work to provide a garage door on the south facing elevation of the stowage area. In terms of the 'French' doors, these are located on the west elevation and are not visible from outside the site. With appropriate conditions relating to joinery and recessed/reveals, I consider that the proposed doors are acceptable. The Council's guidance on the conversion of rural buildings advises that garaging should wherever possible be inserted into the main converted building. This is the case here and I do not consider that the loss of this area of brickwork would so adversely affect the character of the building as to warrant and justify objection on this ground. In addition, once the kiln roofs and cowls of the oast have been restored, this will enhance the area and that it is these elements that will have the greatest visual impact and be seen in the longer distant views.
- 7.11 I consider that the scheme as proposed will provide good quality development which will result in the removal of the large number of unsightly existing industrial/farm buildings as well as the removal of the telephone mast from the frontage area of the site. The layout of the site is considered to be acceptable as is the design of the proposed dwellings.

8 Impact on residential amenity

- 8.1 The largest impact on residential amenity is likely to be a positive one in that the existing uncontrolled business uses will be cleared from the site. This should be a positive benefit to the amenities of nearby residents.
- 8.2 The impact of the development on adjacent existing residential properties in terms of privacy and overshadowing should also be considered. The properties in Burgess Hall Drive are located to the south of the site. There will not be any adverse impact from overshadowing on any of those properties arising from the development. The flank walls of nos. 5 and 15 Burgess Hall Drive face towards the site and are separated from it by the public footpath and existing planting. The flank of no 4 and the front elevations of nos. 6 and 8 Burgess Hall Drive face

towards the site but are located in excess of 20m from the site boundary. The proposed dwellings on plots 1 & 2 face eastwards across the B2163 Upper Street towards Cherry bank with a separation of some 30m. Plot 9 does not face a dwelling on the east side of Upper Street and will not have an adverse impact on Bay Tree Cottage immediately to its north. Plot 12 is located approximately 18m west of Yew Tree House but Upper Street intervenes.

8.3 I do not consider that the development will result in an unacceptable loss of privacy to any nearby dwellings.

9 Ecology and landscape

9.1 The application site has been the subject of detailed ecological assessments in terms of badgers, reptiles, great crested newts and bats.

9.2 There are no badgers within the site or using features within the site that may be affected by the development. Natural England is satisfied in respect of this species.

9.3 It is accepted that there are no great crested newts within the site or using features that may be affected by the development. Natural England is also satisfied in respect of this species.

9.4 In respect of bats, the survey information provided by the applicants indicates that Pipistrelle bats are present within the application site. Natural England has stated that the indicative proposals set out in the application, appear sufficient to mitigate any potential impacts on bat populations and have suggested an informative as follows.

'Should any bats or evidence of bats be found prior to or during works, works must stop immediately and a specialist ecological consultant or Natural England contacted for further advice before works can proceed'

9.5 In respect of other 'widespread reptiles' Natural England has commented that the survey information provided by the applicants indicates that widespread reptiles are present within the application site. However, the proposals set out in the application appear sufficient to mitigate any potential impacts on local reptile populations. Natural England is satisfied that these proposals will not be detrimental to the population of reptiles, subject to the condition listed below.

Prior to the commencement of any works which may affect widespread reptiles or their habitat, a detailed mitigation strategy shall be submitted to, and approved in writing by the Local Planning Authority. All works shall then proceed in accordance with the approved strategy with any amendments agreed in writing.

- 9.6 Through the reserved matters of landscaping and in particular the opportunity provided by the proposed landscaped amenity area to the west of the care home there is potential for significant biodiversity and ecological enhancement on the site. Existing hedgerows are to be retained where possible as are the most important trees located on the southern side of the development site. The applicants have indicated that the hedgerow and ragstone wall along Upper Street will be retained and where removed to facilitate the construction of the access road a replacement ragstone wall and hedge returning into the site along the access road will be provided.
- 9.7 I conclude that the potential ecological implications of the development have been assessed and that subject to appropriate safeguarding conditions and conditions relating to the detail of the reserved matters landscaping submission that there is the potential to achieve biodiversity enhancement within the site as encouraged by PPS9.

10 Highways

- 10.1 Members will have noted the views of Kent Highway Services set out earlier in the report at section 2.8. No objections are raised to the principle of the development subject to a safety audit being undertaken of the new access road and a number of suggested conditions
- 10.2 Kent Highway Services have also confirmed that the overall traffic generation from the development has been assessed using the TRICS database and this has been compared against the existing vehicle trips to and from the site. The results indicate that the application would result in fewer vehicle trips within the highway peak hours with a marginal increase in the daily trips. The existing access is stated to suffer from substandard visibility splays and this serves a number of commercial uses. Visibility splays from the new access are shown as 2.4m x 70m which is acceptable to Kent Highway Services.
- 10.3 Concerns have been expressed regarding the parking provision by both the Parish Council and a number of local residents. I consider the indicated level of car parking is sufficient and that it will not result in parking on Upper Street, which is a busy road and at this point not suited to on street parking in any event, due to its width. I would remind Members that there are no minimum standards for car parking provision. In addition, further parking provision would result in less landscaping and amenity areas within the site. I also consider the care home element of the development is provided with adequate car parking. The 32 spaces car park plus the overflow staff car park (6 spaces) is considered to be sufficient. The care home will be the subject of a Travel Plan to be secured by condition which will seek to provide a number of measures to reduce staff bringing their own cars to work. Members will have noted that an interim plan has been submitted as part of the application which has been amended in the

light of discussions with Kent Highway Services. Kent Highway Services have not raised objections to the proposed level of car parking on highway safety grounds.

11 Community infrastructure and s106 obligations

- 11.1 Policy CF1 of the Maidstone Borough-wide Local Plan 2000 and policy S6 of the South East Plan 2009 encourage the provision of additional community facilities/infrastructure where new development would generate additional demand that cannot be accommodated by the existing infrastructure/facilities. In addition policy OS1 of the Council's adopted Open Space DPD seeks the provision of contributions towards the enhancement/provision of off-site public open space where provision is not made on the application site as part of the development.
- 11.2 In terms of affordable housing given that only 14 units of residential accommodation are proposed, the Council's affordable housing policy AH1 does not apply to the application, as the development is below the threshold of 15 units as set out in the adopted Affordable Housing DPD.
- 11.3 Following requests on behalf of Kent County Council (paragraph 2.6), West Kent Primary Care Trust (section 2.9) and the Council's Parks & Open Spaces section (paragraph 2.15); the applicants have submitted a draft s106 Unilateral Undertaking seeking to make all the appropriate contributions identified. The content of the draft undertaking has been assessed by your officers and is considered to be acceptable. The undertaking is now awaiting signature by the applicant before being formally submitted. The proposed recommendation reflects this.

12 **CONCLUSIONS**

- 12.1 The mixed-use redevelopment of the site as proposed is acceptable in terms of Development Plan policy and government advice.
- 12.2 The proposed residential development will provide housing of a good design that draws on elements of the local vernacular, will provide sufficient car parking and provide good private amenity space for each of the dwellings. There is space to provide a good landscaping scheme to soften the development.
- 12.3 The care home and associated development is also acceptable in principle. Adequate car parking and servicing provision has been shown and the proposed amenity area to the west of the indicated siting of the main care home provides the opportunity to enhance ecology and biodiversity within the site as well as provide a landscaped setting for the development.

- 12.4 There is no policy which seeks to retain the existing uses on the site and on balance their removal will result in an improvement to the character and appearance of the site and hence the area as a whole. I consider that the setting of the Conservation Area and listed building will certainly be preserved if not enhanced. There are no highway objections to the proposals.
- 12.5 The proposals take into account the ecological implications of the development and Natural England are satisfied in this respect.
- 12.6 The proposed unilateral undertaking will provide for appropriate contributions to community infrastructure to meet the additional demand generated by the development.
- 12.7 Subject to appropriate conditions the development is considered acceptable and the following recommendation is appropriate.

RECOMMENDATION

Subject to

A: The prior completion of a s106 legal agreement or receipt of a completed s106 unilateral undertaking in such terms as the Head of Legal Services may advise that secures:-

- i) Contributions towards the provision of Library, Adult Education, Youth and Community and Adult Social Services facilities,
- ii) A contribution towards the provision of Primary Health Care facilities,
- iii) A contribution towards the provision of off-site public open space,

B: I be GIVEN DELEGATED POWERS to GRANT PLANNING PERMISSION subject to the following conditions:

1. The development shall not commence until approval of the following reserved matters has been obtained in writing from the Local Planning Authority:-
 - A) In respect of the care home, close-care bungalows and day centre/close-care apartments;
 - a. Layout b. Scale c. Appearance d. Landscaping
 - B) In respect of the residential development;
 - a. Landscaping

Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

The development hereby permitted shall be begun before the expiration of three years from the date of approval of the last of the reserved matters to be approved;

Reason: No such details have been submitted and in accordance with the provisions of Section 92 of the Town and Country Planning Act 1990.

2. Application(s) for approval of the reserved matters of scale, layout and appearance for the residential care home, close-care bungalows and day centre/close-care apartments shall accord with the parameters set out on page 8 of the Design and Access Statement received 21 August 2009.

Reason: To ensure a satisfactory form of development in the interests of the character and visual amenities of the area pursuant to policies CC6 and BE6 of the South East Plan 2009.

3. The development shall not commence until, details of the parking spaces serving the care home, close-care bungalows and day centre/close-care apartments have been submitted to and approved in writing by the Local Planning Authority;

Reason: Development without adequate parking/garage provision is likely to lead to parking inconvenient to other road users and in the interests of road safety pursuant to policy T13 of the Maidstone Borough-wide Local Plan 2000.

4. The approved details of the parking/turning areas shall be completed before the commencement of the use of the land or buildings hereby permitted and shall thereafter be kept available for such use. No development, whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 as amended by the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2008 and the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any order revoking and re-enacting that Order, with or without modification) or not, shall be carried out on the areas indicated or in such a position as to preclude vehicular access to them;

Reason: Development without adequate parking/turning provision is likely to lead to parking inconvenient to other road users and in the interests of road safety pursuant to policy T13 of the Maidstone Borough-wide Local Plan 2000.

5. The details of the reserved matter of landscaping submitted pursuant to condition 1 above shall include inter-alia,
- i) The retention of the existing hedgerow and ragstone wall to the Upper Street frontage of the site and where removed to provide the site access road the provision of a replacement hedgerow and ragstone wall returning into the site along either side of the site access road to the front of plots 1, 2 and 12,
 - ii) The provision of a ragstone wall and hedgerow to the Upper Street frontage of Plot 9,
 - iii) Details of the layout and planting of the proposed amenity area to the west of the care home including the provision of wildlife pond(s), reptile/wildlife corridors linking the site to the surrounding habitat network and appropriate refugia/hibernacula and the siting of a retained proportion of the cordwood arising from any removed trees,
 - iv) Details of all existing trees and hedgerows within the site including details of those to be removed or retained,
 - v) The use of indigenous species of local provenance for the proposed planting scheme and any plants in the wildlife pond(s).
 - vi) A long term landscape management plan for the site in particular for the landscaped amenity area to the west of the care home,

The planting scheme shall be designed in accordance with the Council's adopted Landscape Character Assessment and Landscape Guidelines;

Reason: No such details have been submitted and to ensure a satisfactory external appearance to the development pursuant to policy ENV6 of the Maidstone Borough-wide Local Plan 2000 and policies NRM5 and NRM7 of the South East Plan 2009

6. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building(s) or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation;

Reason: To ensure a satisfactory setting and external appearance to the development pursuant to policy ENV6 of the Maidstone Borough-wide Local Plan 2000 and policies NRM5 and NRM7 of the South East Plan 2009.

7. All trees to be retained must be protected by barriers and/or ground protection in accordance with BS 5837 (2005) 'Trees in Relation to Construction-Recommendations'. No work shall take place on site until full details of protection have been submitted to and approved in writing by the Local Planning Authority.

The approved barriers and/or ground protection shall be erected before any equipment, machinery or materials are brought onto the site and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed, nor fires lit, within any of the areas protected in accordance with this condition. The siting of barriers/ground protection shall not be altered, nor ground levels changed, nor excavations made within these areas without the written consent of the Local Planning Authority;

Reason: To safeguard existing trees to be retained and to ensure a satisfactory setting and external appearance to the development pursuant to policy ENV6 of the Maidstone Borough-wide Local Plan 2000.

8. The development shall not commence until, written details and samples of the materials to be used in the construction of the external surfaces of the building(s) hereby permitted have been submitted to and approved in writing by the Local Planning Authority and the development shall be constructed using the approved materials;

Reason: To ensure a satisfactory appearance to the development pursuant to policies CC6 and BE6 of the South East Plan 2009.

9. The development shall not commence until, details of the proposed slab levels of the building(s) and the existing site levels have been submitted to and approved in writing by the Local Planning Authority and the development shall be completed strictly in accordance with the approved levels;

Reason: In order to secure a satisfactory form of development having regard to the topography of the site pursuant to policies CC6 and BE6 of the South East Plan 2009.

10. The development shall not commence until, full details of the following matters have been submitted to and approved in writing by the Local Planning Authority:-
 - a) New external joinery for the converted oast house in the form of large scale drawings.

The development shall be carried out in accordance with the approved details;

Reason: To ensure the appearance and the character of the building are maintained pursuant to policies CC6 of the South East Plan 2009.

11. The dwellings, including the close-care bungalows shall achieve Level 3 of the Code for Sustainable Homes. The care home shall achieve a BREEAM® Multi-residential rating of at least very good. No dwelling shall be occupied until a final Code

Certificate has been issued for it certifying that Code Level 3 has been achieved and the care home shall not be occupied until a final certificate has been issued for it certifying that a BREEAM® Multi-residential rating of at least very good has been achieved.

Reason: to ensure a sustainable and energy efficient form of development in accordance with policy CC4 of the South East Plan 2009, Kent Design 2000 and PPS1.

12. The development shall not commence until details of the proposed materials to be used in the surfacing of all access roads, parking and turning areas and pathways within the site, have been submitted to and approved by the local planning authority. The development shall thereafter be undertaken in accordance with the subsequently approved details.

Reason: To ensure a high quality external appearance to the development pursuant to PPS1.

13. The development shall not commence until details of any lighting to be placed or erected within the site have been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include, inter-alia, details of measures to shield and direct light from the light sources so as to prevent light pollution. The development shall thereafter be carried out in accordance with the subsequently approved details.

Reason: To prevent light pollution in the interests of the character and amenity of the area in general pursuant to Policy ENV49 of the Maidstone-Wide Local Plan 2000.

14. No development shall take place until details in the form of large scale drawings (at a scale of 1:20 or 1:50) of the following matters have been submitted to and approved by the Local Planning Authority;

- i) Details of the roof overhangs and eaves including exposed rafter feet.
- ii) Details of windows and doors and recesses/reveals (which shall be a minimum of 70mm).
- iii) Details of the soldier arches and cills.

The development shall thereafter be undertaken in accordance with the subsequently approved details.

Reason: To ensure a satisfactory external appearance to the development in the

interests of the visual amenity and character of the surrounding area in accordance with PPS1.

- 15.No external meter cupboards, vents, flues or extract grilles shall be installed on any elevation facing a highway without the prior agreement in writing of the Local Planning Authority.

Reason: In the interest of the visual amenity of the area in accordance with PPS1.

- 16.The development shall not commence until a scheme for the permanent closure of the existing access to Upper Street to vehicular traffic has been secured and approved by the Local Planning Authority and the approved scheme shall be completed prior to the first occupation of the properties;

Reason: In the interests of road safety in accordance with PPG13.

- 17.The new access road to Upper Street shall be provided with visibility splays of 70m x 2.4m x 70m with no obstruction over 1.0m in height within the splays. The splays shall be provided prior to the first use of the access hereby approved and shall be subsequently maintained thereafter;

Reason: In the interests of highway safety pursuant to the advice in PPG13 and Manual for Streets.

- 18.The development shall not commence until details of foul and surface water drainage have been submitted to and approved by the local planning authority. The development shall thereafter be carried out in accordance with the approved details.

Reason: In the interest of pollution and flood prevention pursuant to policy NRM4 of the South East Plan 2009.

- 19.Prior to the commencement of any works which may affect widespread reptiles or their habitat, a detailed mitigation strategy shall be submitted to, and approved in writing by the Local Planning Authority. All works shall then proceed in accordance with the approved strategy unless any amendments are agreed in writing by the local planning authority.

Reason: In the interests of ecology and biodiversity pursuant to policy NRM5 of the South East Plan 2009.

- 20.The development shall not commence until:

1. The application site has been subjected to a detailed scheme for the investigation and recording of site contamination and a report has been submitted to and approved by the Local planning authority. The investigation strategy shall be based upon relevant information discovered by a desk study. The report shall include a risk assessment and detail how site monitoring during decontamination shall be carried out. The site investigation shall be carried out by a suitably qualified and accredited consultant/contractor in accordance with a Quality Assured sampling and analysis methodology and these details recorded.

2. Detailed proposals in line with current best practice for removal, containment or otherwise rendering harmless such contamination (the 'Contamination Proposals') have been submitted to and approved by the Local Planning Authority. The Contamination Proposals shall detail sources of best practice employed.

3. Approved remediation works have been carried out in full on site under a Quality Assurance scheme to demonstrate compliance with the proposed methodology. If, during any works, contamination is identified which has not previously been identified additional Contamination Proposals shall be submitted to and approved by, the local planning authority.

4. Upon completion of the works, this condition shall not be discharged until a closure report has been submitted to and approved by the local planning authority. The closure report shall include full details of the works and certification that the works have been carried out in accordance with the approved methodology. The closure report shall include details of any post remediation sampling and analysis together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean;

Reason: To prevent harm to human health and pollution of the environment pursuant to the advice in PPS23.

21. The development shall not commence until details of cycle parking spaces have been submitted to and approved by the local planning authority. The subsequently approved spaces shall be provided prior to the first use of the building(s) they serve and shall be maintained thereafter.

Reason: In the interests of sustainability and to reduce reliance on the use of the private car pursuant to the advice in PPG13.

22. No part of the care home and associated close-care apartments and bungalows and day centre hereby permitted shall be brought into beneficial use unless and until a detailed Travel Plan has been prepared and approved in writing by the Local Planning Authority in consultation with the Local Highway Authority. The agreed Travel Plan measures shall subsequently be implemented and thereafter maintained

in full within 3 months of the first occupation of the development and by its subsequent occupiers, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that no more trips are generated than predicted and in the interests of sustainability and to reduce reliance on the use of the private car as a means of transport pursuant to Planning Policy Guidance Note 13.

- 23.No development shall take place until the applicant has secured and had implemented a programme of archaeological work in accordance with a written specification and timetable which has been submitted to and approved by the Local Planning Authority;

Reason: To enable the recording of any items of historical or archaeological interest pursuant to policy BE6 of the South East Plan 2009.

- 24.The development shall not commence until, details of all fencing, walling and other boundary treatments have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details before the first occupation of the building(s) or land and maintained thereafter;

Reason: To ensure a satisfactory appearance to the development and to safeguard the enjoyment of their properties by existing and prospective occupiers pursuant to the advice in PPS1.

- 25.Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended by the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2008 and the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any order revoking and re-enacting that Order with or without modification) no development within Schedule 2, Part 1, Classes A, B, C, D, E, F and G to that Order shall be carried out without the permission of the Local Planning Authority;

Reason: To safeguard the character, appearance and functioning of the surrounding area pursuant to policy CC6 of the South East Plan 2009 and the advice in PPS1.

Informatives set out below

It is possible that bats may be using the site and as such, should the Council be minded to grant permission for this application we would request that the following informative is appended to any consent: 'Should any bats or evidence of bats be found

prior to or during works, works must stop immediately and a specialist ecological consultant or Natural England contacted for further advice before works can proceed'. All contractors working on site should be made aware of it and provided with Natural England's contact details (Natural England, International House, Dover Place, Ashford, Kent, TN23 1HU Tel: 0300 060 4797)

You are advised to ensure that the appointed contractor(s) is/are registered with the 'Considerate Constructors Scheme' and that the site is thereafter managed in accordance with the Scheme. Further information can be found at www.considerateconstructorsscheme.org.uk

Attention is drawn to Sections 60 and 61 of the Control of Pollution Act 1974 and to the Associated British Standard Code of practice BS5228:1997 for noise control on construction sites. Statutory requirements are laid down for control of noise during works of construction and demolition and you are advised to contact the Environmental Health Manager regarding noise control requirements.

Clearance and subsequent burning of existing woodland or rubbish must be carried out without nuisance from smoke, etc. to nearby residential properties. Advice on minimising any potential nuisance is available from the Environmental Health Manager.

Plant and machinery used for demolition and construction shall only be operated within the application site between 0800 hours and 1900 hours on Mondays to Fridays and between 0800 hours and 1300 hours on Saturdays and at no time on Sunday and Bank Holidays.

No vehicles may arrive, depart, be loaded or unloaded within the general site except between the hours of 0800 and 1900 Mondays to Fridays and 0800 and 1300 hours on Saturdays and at no time on Sundays or Bank Holidays.

Adequate and suitable provision in the form of water sprays should be used to reduce dust from demolition work.

The developer may be required to produce a Site Waste Management Plan in accordance with Clean Neighbourhoods and Environment Act 2005 Section 54. This should be available for inspection by the Local Authority at any time prior to and during the development.

No development shall commence until a scheme for the use of wheel cleaning, dust laying and road sweeping equipment, have been submitted to and the scheme approved in writing by the local planning authority. The approved scheme shall be implemented in its entirety once development has commenced, for the duration of demolition/construction works at the site.

The developers shall provide adequate space within the application site for the parking/turning/unloading of contractors vehicles before any works commence on site.

Such space shall thereafter be maintained during the construction process where practicable.

The proposed development, subject to the conditions stated, is considered to comply with the policies of the Development Plan (Maidstone Borough-Wide Local Plan 2000 and South East Plan 2009) and there are no overriding material considerations to indicate a refusal of planning consent.

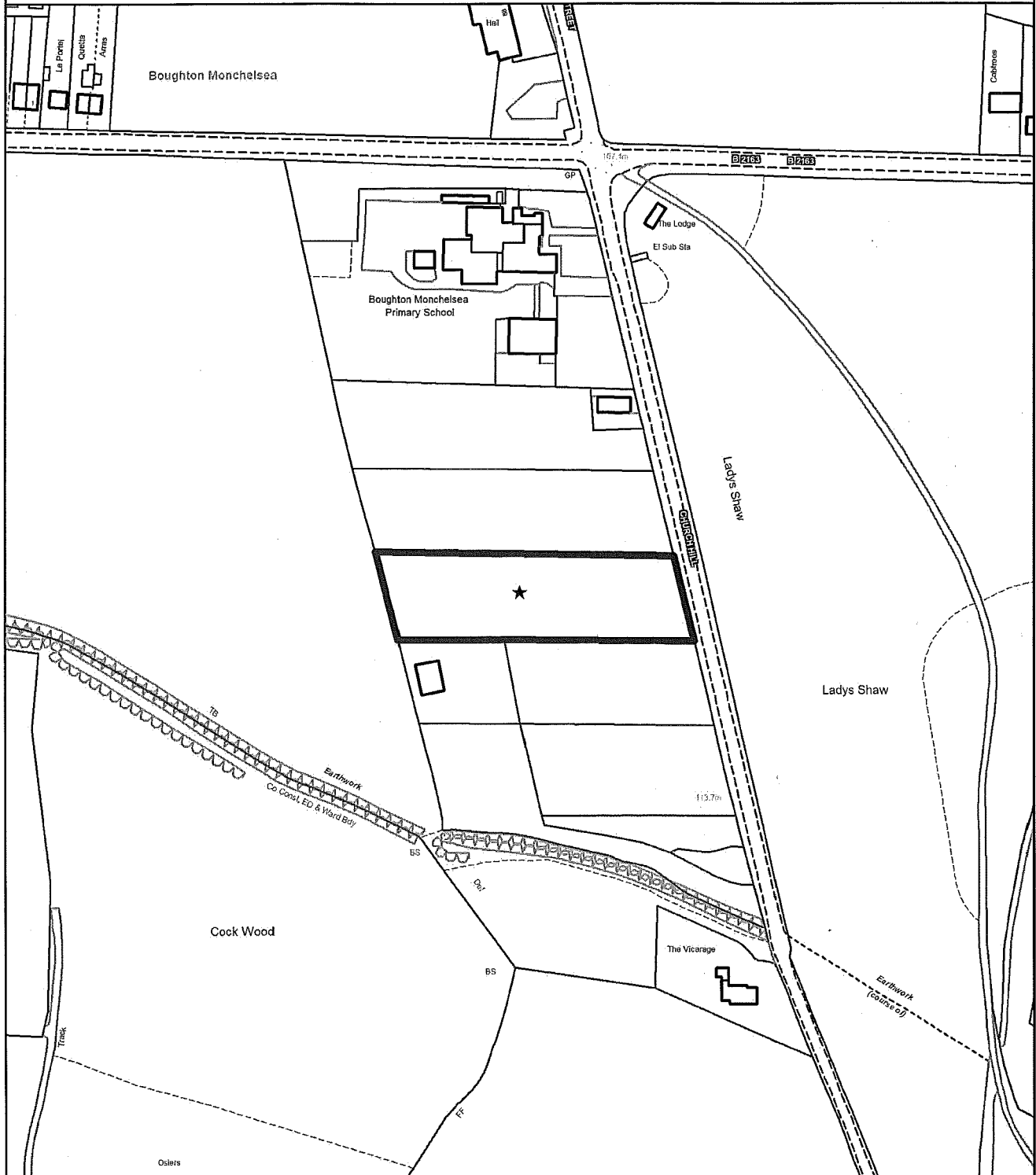
Agenda Item 16

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/09/1685

GRID REF: TQ7650

FAIRWAY, CHURCH HILL,
BOUGHTON MONCHELSEA.



This copy has been produced specifically for Planning and Building Control Purposes only. No further copies may be made. Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationary Office ©Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. The Maidstone Borough Council No. 1000019636, 2009. Scale 1:2500



Alison Broom
Director of Prosperity and Regeneration

APPLICATION: MA/09/1685 Date: 16 September 2009 Received: 16
December 2009

APPLICANT: Mr B. Lee

LOCATION: FAIRWAY, CHURCH HILL, BOUGHTON MONCHELSEA, MAIDSTONE,
KENT, ME17 4BU

PARISH: Boughton Monchelsea

PROPOSAL: Retrospective application for the change of use of land for the
stationing of 1 no. mobile home and 1 no. touring caravan for
residential purposes, stable block and utility building with
associated works i.e., hardstanding and cess pool as shown on site
location plan, block plan and elevations received on 21/09/09.

AGENDA DATE: 25th February 2010

CASE OFFICER: Geoff Brown

The recommendation for this application is being reported to Committee for decision
because:

- it is contrary to views expressed by Boughton Monchelsea Parish Council.

1. POLICIES

Maidstone Borough-Wide Local Plan 2000: ENV28
The South East Plan 2009: CC1, CC6, C4, H4
Village Design Statement: N/A
Government Policy: PPS1, PPS3, PPS7, Circular 1/2006

1. HISTORY

I do not consider there to be any planning history that is relevant to this
proposal.

2. CONSULTATIONS

- 3.1 BOUGHTON MONCHELSEA PARISH COUNCIL wishes to see the application
refused and reported to committee for the following reasons:
"1. The development, if permitted, will set a precedent for other forms of
development on the south side of the B2163. The Parish Council wishes to see
the planning authority strongly resist any form of new build or inappropriate

development on the south side of Heath Road. Heath Road should remain a natural boundary of built development with the open countryside.

2. The proposal would result in visually intrusive and unjustified residential development within open countryside, contrary to Policy ENV28 of the Maidstone Borough Wide Local Plan 2000 and Policies CC1, CC6 and C4 of the South East Plan 2009.

3. The proposed development is outside the defined boundary of the village and would be contrary to Policy H27 of the Maidstone Borough Wide Local Plan 2000 and CC1, CC6 and C4 of the South East Plan 2009.

4. The proposed development would introduce unjustified additional traffic onto a rural lane which will affect its character contrary to Policy NRM10 of the South East Plan 2009.

5. The proposed development fronts onto Church Hill which a quiet rural lane. Any development with permitted access onto Church Hill would destroy the character and appearance of the lane and would be contrary to Policy ENV36 of the Maidstone Borough Wide Local Plan 2000.

6. The proposed development is outside the defined village boundary, stands in isolation, and does not form part of any existing frontage development and would be contrary to Policies ENV28 and H29 of the Maidstone Borough Wide Local Plan 2000.

7. The development is set close to the edge of the road, resulting in a particularly obtrusive and prominent form of development that is detrimental to the character of the area.

8. The Parish Council expects the planning authority to rigorously vet the status of the applicant and his partner to determine if they fully qualify for the gypsy status they claim."

3.2 LINTON PARISH COUNCIL (THE NEIGHBOURING PARISH) wishes to see the application refused and reported to planning committee for the following reasons:

"Once again agricultural land is being used for residential purposes which, in a normal situation would not be permitted. This should be strongly resisted."

3.3 THE ENVIRONMENT AGENCY has no objection but provide advice on the use of septic tanks/cess pools, treatment of run off from stabling areas and formation of soakaways.

3.4 SOUTHERN WATER has no objection.

3.5 KENT HIGHWAYS has no objection.

3.6 THE ENVIRONMENTAL HEALTH OFFICER has no objection.

3. REPRESENTATIONS

LETTERS OF OBJECTION HAVE BEEN RECEIVED FROM SEVEN LOCAL HOUSES and the following points are made:

- a) This proposal is retrospective having taken place before permission is secured.
- b) The development spoils the countryside and is contrary to guidance and existing and emerging policy. Heath Road forms a natural barrier beyond which new development should be strongly restricted. Buildings and structures are poorly designed and out of character with the surroundings.
- c) Listed buildings and conservation areas are harmed. The setting of Boughton Monchelsea Place is adversely affected.
- d) Traffic generated by the use is detrimental to the safe workings of the local highway network. The site is close to the school and there are potential conflicts with children.
- e) Good quality agricultural land has been taken up.
- f) Residential amenity is adversely affected.
- g) To permit this development would be to set up a precedent for future schemes in the same locality.
- h) The impact on crime and disorder should be considered.
- i) The construction phase leads to disruption.

4. CONSIDERATIONS

5.1 Description of the Site

The application site is located in the rural area to the south of the village of Boughton Monchelsea. The site involves a rectangular area of former grassland, approx. 38m by 130m, located off the west side of Church Hill. The site is one of a number of rectangular plots in this vicinity. The parkland of Boughton Monchelsea Place is located on the opposite side of Church Hill, whilst Boughton Monchelsea Primary School is located approx. 100m to the north at the crossroads of Church Hill with Heath Road. There is woodland to the west of the site.

5.2 The Proposed Development

- 5.2.1 The application is retrospective and involves the establishment of a gypsy caravan site. The site has been occupied for less than 6 months. Only the front part of the site is to be developed to any degree with the remainder left as a paddock. The block plan submitted with the application shows a mobile home located in the north east corner of the site with a brick utility block just to the south of the mobile home. To the south side of the access a timber clad stable block is proposed with space for a touring caravan to the west of that. Hardstanding is proposed for the site frontage to a depth of approx. 13m.

5.2.2 The site is occupied by Mr Bob Lee and his new partner Jo. Mr Lee is no longer with his wife but has three children who would visit, including his son Bob Lee Junior who is expected to come and live on the site. Mr Lee is from a large gypsy family based in Kent and Essex and was based in Dartford before more recently moving to Havering on a temporary basis. Mr Lee is a horse dealer who attends the main horse shows. Whilst not from the local area, Mr Lee has family connections with gypsy families in Coxheath, Maidstone, Kingswood and Charing Heath. Mr Lee wishes to establish a base on this site and no special circumstances (in terms of health, education, etc.) are claimed.

5.3 Principle of Development

Development in the countryside is restricted by the terms of Development Plan Policy and Central Government Guidance. As an exception to the general theme of restraint policy and guidance allow for the creation of private gypsy caravan sites where there is a demonstrated need. Other than the very general advice in Policy H4 of The South East Plan 2009, there is no directly relevant adopted policy here and the advice in Circular 01/2006 is the most pertinent.

5.4 Gypsy Status and Need

5.4.1 Circular 01/2006 provides the following definition of gypsies and travellers:

"Persons of nomadic habit of life, whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling show people or circus people travelling together as such."

5.4.2 Paragraphs 17 and 18 of the Circular refer to the changing patterns of employment amongst gypsies and travellers and the fact that the community has generally become more settled. The Circular states that there is a need to provide sites in locations that meet the current working patterns of gypsies and travellers.

5.4.3 On the issue of gypsy status, the agent has provided evidence to support the view that Mr Lee meets the definition of a gypsy given above. He has local connections with known gypsy families and is himself engaged in horse dealing. Mr Lee travels for work to most of the horse fairs throughout the summer months and tries to find landscaping work during the winter months. On the evidence I have concluded that Mr Lee meets the definition of a gypsy.

5.4.4 *Planning Policy Statement 3: Housing* makes specific reference to the need to accommodate Gypsies and Travellers. *Circular 01/2006: Planning for Gypsy and*

Traveller Caravan Sites gives guidance on how this should be achieved, including the need to start the process with a clear assessment of needs through Gypsy and Traveller Accommodation Assessments.

- 5.4.5 There is a clear and identifiable need for gypsy accommodation within the Borough that stems from the Gypsy and Traveller Accommodation Assessment (GTAA), which was undertaken in 2005/06 and covers four local authorities – Ashford, Maidstone, Tonbridge & Malling and Tunbridge Wells. Based on this assessment, there is a need for some 32 new pitches in the Borough over the five year period which equates to 6.4 pitches/year. The extremely low turnover of pitches on the Council sites, which is confirmed by the Council's Gypsy and Caravan Sites Officer, increases the yearly requirement by 2 to 3 pitches, meaning a yearly requirement of 8 to 10.
- 5.4.6 Work has begun on a gypsy DPD with consultation expected spring 2010 with adoption planned for July 2011.
- 5.4.7 At the time of writing this report the number of pitches allowed since 2006 is as follows:-
- 27 permanent permissions
 - 9 temporary permissions
 - 12 permanent with personal permissions
 - 15 temporary with personal permissions
- 5.4.8 From the above information it is clear that there is a significant need for gypsy sites within the Borough. This need and the absence of any allocated sites are given significant weight by Inspectors when determining appeals.
- 5.4.9 The Council does not have any public sites available and there are no new designations for public sites.
- 5.4.10 Whilst there is a significant need, this must be balanced against any harm caused in each case. Having dealt with general matters I now turn to an assessment of this particular site.

5.5 Visual Impact

- 5.5.1 I consider the main issue here to be the impact of the proposals on the character of the countryside. This area does not form part of the Greensand Ridge Special Landscape Area and is not covered by any particular designation. In such an area Circular 1/2006 allows for gypsy caravan sites in principle. Only one mobile home is proposed here (albeit with a utility room, a stable block and room for the parking of a tourer) and I regard the development as relatively small scale.

This is flat land that is reasonably well shielded from views from Church Hill by the roadside hedge between the grassed verge and the site's boundary fencing. The main public views are from this highway as there are no roads or public rights of way to the west. I acknowledge that the hedge does not completely screen the mobile home and there are views of the site from the gateway (there was a field entrance there previously) but I do not consider the harm to the countryside is so great as to warrant a refusal on this issue. Looking at detailed design issues the mobile home on site is of fairly standard design and the two proposed buildings are of modest proportions and appropriate materials. The detail of the external materials can be controlled by condition.

5.5.2 There are no other gypsy sites in the vicinity of the site and therefore it can not be the case that a permission here would lead to an undue concentration of sites. In terms of setting a precedent each case should be determined on its own merits and any future proposals should be judged on that basis.

5.6 Conservation Issues

The Conservation Officer has confirmed my view that the development has no significant impact on the setting of the historic parkland on the east side of Church Hill. No listed buildings or conservation areas are affected here.

5.7 Residential Amenity

A residential use should not be a significant noise generator. The application site has no near neighbours and I do not consider the development causes any significant harm to residential amenity through noise and disturbance, loss of privacy, etc.

5.8 Sustainability

It is inevitable that many gypsy sites will be located in the rural area and, to my mind, this site occupies a reasonably sustainable location close to the junior school and the public transport opportunities of Heath Road. The village boundary of Boughton Monchelsea is approx. 250m to the north and this is by no means a remote site. In my view it provides a settled base without the need for long-distance travelling as outlined at paragraph 64 of Circular 01/2006.

5.9 Highway Safety

On the issue of highway safety the road is straight at this point and the access enjoys adequate visibility. The site access is a significant distance from the school. There is ample space on site to park and turn vehicles. In all I agree with Kent Highways that there is no reason to refuse this application on highways grounds.

5.10 Other Issues

- 5.10.1 The site previously involved part of a grassed field split into paddocks behind a roadside hedge: land which I do not regard as being of any specific value in terms of ecology and I see no reason to refuse this application on the basis of an adverse impact on fauna and flora.
- 5.10.2 Whilst land in this area is potentially good quality agricultural land, this is a small scale development the built element of which takes up only a fraction of the site area. The land was not part of a significant agricultural enterprise and its 'loss' to agriculture is not of significance here.
- 5.10.3 Finally, issues of crime and disorder are matters for the police, whilst disruption during the construction phase is not a planning matter.
- 5.10.4 On balance I consider that, whilst the proposal adds to sporadic development and causes some harm to the character and appearance of the countryside, this limited harm is outweighed by the ongoing need to provide sites for gypsies and I recommend that planning permission be granted.

RECOMMENDATION

GRANT PLANNING PERMISSION subject to the following conditions:

1. This permission does not authorise the use of the land as a caravan site by any persons other than gypsies, as defined in paragraph 15 of ODPM Circular 01/2006.

Reason: The site is in an area where the stationing of caravans/mobile homes is not normally permitted and an exception has been made to provide accommodation solely for gypsies who satisfy these requirements pursuant to Circular 01/2006: Planning for Gypsy and Traveller Caravan Sites. This in accordance with Maidstone Borough-Wide Local Plan 2000 Policy ENV28 and The South East Plan 2009 Policy C4.

2. No more than one static caravan and one touring caravan shall be stationed on the land at any one time;

Reason: In the interests of visual amenity and in accordance with Policy ENV28 of the Maidstone Borough-Wide Local Plan 2000 and Policy C4 of The South East Plan 2009.

3. Within 3 months of the date of this permission a scheme of landscaping shall be submitted to and approved by the Local Planning Authority. The scheme shall use

indigenous species and shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development and a programme for the approved scheme's implementation and long term management. The scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment and Landscape Guidelines;

Reason: No such details have been submitted. This in accordance with Policy ENV28 of the Maidstone Borough-Wide Local Plan 2000 and Policy C4 of The South East Plan 2009.

4. Before works commence on the utility block details of the proposed external materials of that block shall be submitted to and approved by the Local Planning Authority;

Reason: In the interests of visual amenity. This in accordance with Policy ENV28 of the Maidstone Borough-Wide Local Plan 2000 and Policy C4 of The South East Plan 2009.

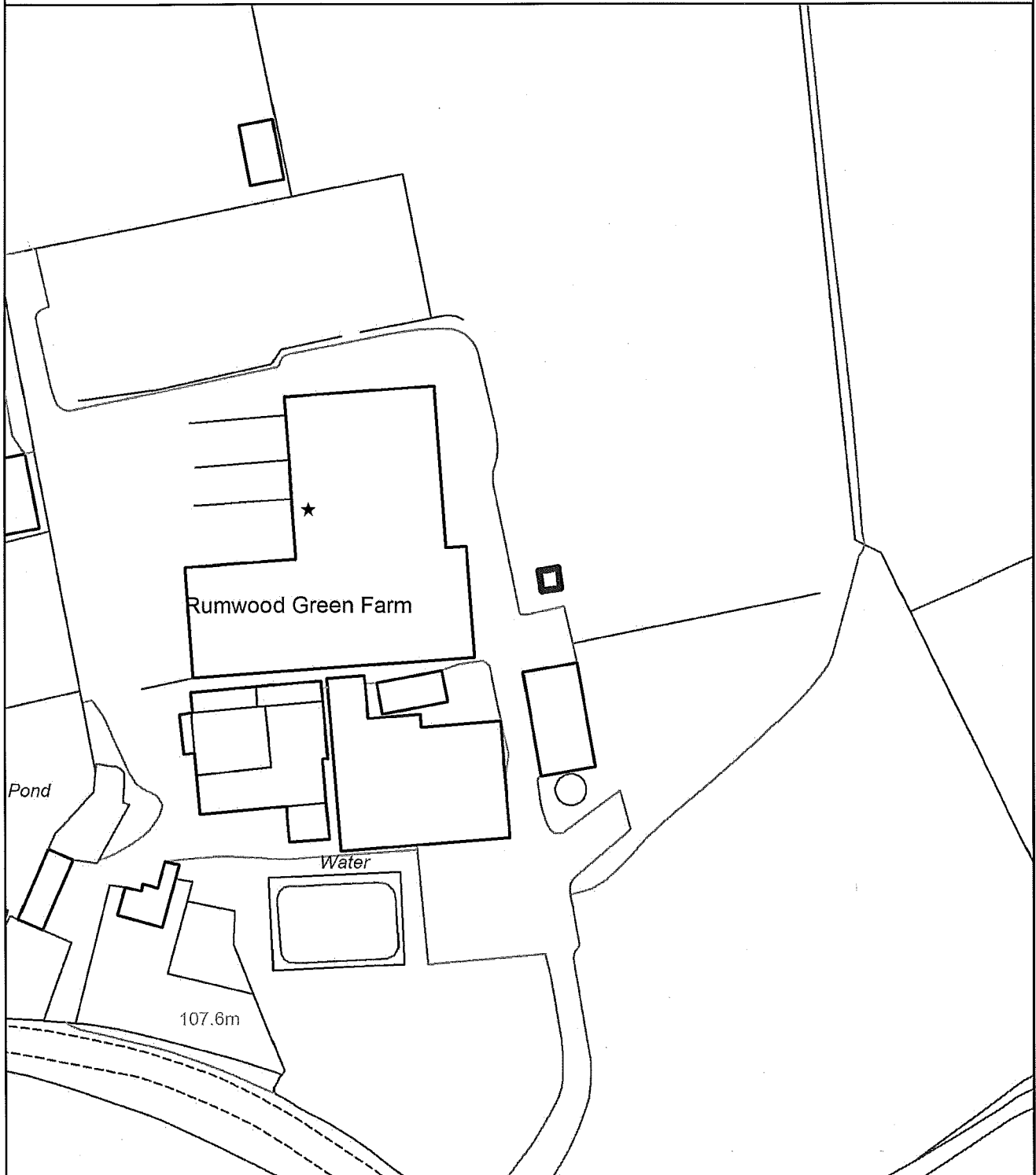
The proposed development, subject to the conditions stated, is considered to comply with the policies of the Development Plan (Maidstone Borough-Wide Local Plan 2000 and South East Plan 2009) and there are no overriding material considerations to indicate a refusal of planning consent.

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/09/1830

GRID REF: TQ8052

RUMWOOD GREEN FARM,
SUTTON ROAD, LANGLEY.



This copy has been produced specifically for Planning and Building Control Purposes only. No further copies may be made. Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationary Office ©Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. The Maidstone Borough Council No. 1000019636, 2009. Scale 1:1250



Alison Broom
Director of Prosperity and Regeneration

APPLICATION: MA/09/1830 Date: 8 October 2009 Received: 3 February 2010
APPLICANT: HUTCHINSON 3G (UK) & T-MOBILE (UK) LTD
LOCATION: RUMWOOD GREEN FARM, SUTTON ROAD, LANGLEY, MAIDSTONE,
KENT, ME17 3ND
PARISH: Langley
PROPOSAL: Installation of 20m high lattice tower supporting three antennas,
two dish antennas and radio equipment housing ancillary
development as shown on drawing numbers 101, 102, 103, 104,
106 received on 9/10/09; as amended by email dated 03/2/10.
AGENDA DATE: 25th February 2010
CASE OFFICER: Geoff Brown

The recommendation for this application is being reported to Committee for decision because:

- it is contrary to views expressed by the Parish Council

1.0 POLICIES

Maidstone Borough-Wide Local Plan 2000: ENV28
The South East Plan 2009: CC1, C4
Village Design Statement: N/A
Government Policy: PPS1, PPS7, PPG8

2.0 HISTORY

2.1 The relevant planning history is as follows:

MA/05/1482 – Erection of a 20m high telecommunications [with antennae and equipment housing] - Permitted

3.0 CONSULTATIONS

3.1 LANGLEY PARISH COUNCIL “wishes to see the application refused for the following reasons:

- The Parish Council is not opposed to the installation of telecommunications masts in suitable and sensitively chosen locations.
- The Parish Council support the improvement of mobile telecommunication infrastructure.

- This mast is proposed to be sited in an open landscape and will result in a significant character change of the skyline.
- Although the application refers to an integrated structure, please refer to the site photograph which clearly shows the open background.
- We note that Section 6 of the Site Specific Supplementary Information states that other sites have not been considered and the Parish Council is disappointed that this is the case. There may be other sites where a mast may be constructed against a skyline of tall trees and would therefore be less obtrusive.
- Finally, we note the Design and Access Supporting Statement confirms the nearest residential properties are 150m south east of the proposed site but the Parish Council is aware that in the immediate vicinity there are in excess of 40-60 caravans used by large numbers of workers and some of these caravans have continuous occupation recently granted by MBC.”

3.2 KENT HIGHWAYS has no objection.

4.0 REPRESENTATIONS

- 4.1 ONE LOCAL HOUSEHOLD OBJECTS (via an agent) on the following grounds:
- The proposed mast would be clearly visible and far more prominent than the existing slender pole mast. It would be visible from the A274 and the public footpath network and would be an intrusive and damaging development, harmful to the countryside.
 - The facility should be sited at the industrial estate or coverage should be provided by smaller masts. Other solutions should be explored rather than allow such a large and intrusive feature.
- 4.2 OFFICER COMMENT: I have re-notified all parties on some additional information from the agents re: the colour of the mast, etc and reasons as to why a mast at the Parkwood Industrial Estate could not provide adequate coverage. Any further views received will be reported at committee.

5.0 CONSIDERATIONS

5.1 Background

The development proposed here is very similar to that previously approved under reference MA/05/1482; however that permission was not implemented. That previous scheme was for Hutchison only whereas this current scheme before Members proposes a Hutchison/ T Mobile ‘mast share’. PPG8 encourages companies to share facilities in order to avoid the proliferation of masts.

5.2 Description of the Site

The application site is located at Rumwood Green Farm on the north side of the A274. This is land in the countryside that is not the subject of any particular landscape designation. The vehicular access to the farm runs north from the main road and passes between farm buildings: beyond that a group of caravans is found to the west and a field to the east. The site for the compound is in the south west corner of that field, bordered by the road to the west with a modern agricultural building approx. 15m to the south. There is an existing T Mobile slender pole mast set amidst the farm buildings to the south west of the site for the proposed mast.

5.3 The Proposal

The application proposes a 20m high, lattice style mast with antennae and ancillary equipment at ground level within a fenced compound. The mast would be coloured bottle green and the equipment housing would have a galvanised finish. The existing T Mobile slender pole mast would be decommissioned.

5.4 Planning Considerations

- 5.4.1 This application needs to be considered against those policies aimed at the protection of the countryside and particularly in the light of the central government guidance in PPG8 which governs telecommunications development. Local Plan Policy ENV48 which covered telecommunications development has not been 'saved' as part of the Local Development Framework process, nor is there significant guidance in The South East Plan.
- 5.4.2 Looking at the need for the development, Hutchison and T Mobile require an additional facility in this area in order to provide adequate '3G' service: coverage plots are provided to demonstrate this and these show a 'hole' in the current pattern of provision around the A274.
- 5.4.3 In terms of impact on health, and fears over health matters, the application is accompanied by an ICNIRP certificate: therefore I conclude that health issues are not a significant issue in this case. In any event, I note that the site is quite well divorced from dwellinghouses, although quite close to the aforementioned group of farm worker caravans. I do not consider that there would be any adverse impact on residential amenity.
- 5.4.4 There is no objection from Kent Highways and there is no reason to refuse this application on highways grounds.
- 5.4.5 The most significant issue here is the impact of the mast on the appearance of the countryside. It should be noted that Planning Committee have previously permitted a 20m high lattice mast in the same part of the farm complex under reference MA/05/1482, although that consent has now time expired without being implemented.

5.4.6 Whilst this area is part of the countryside it is not the subject of any particular landscape designation. The site has the advantage of being set well back into the farm so that it is approx. 120 to 130m from the main road. It is well related to the group of farm buildings there (it is only around 15m away from a modern farm building) rather than being situated in an isolated and exposed position and the site benefits, to a certain extent, from the screening effect of the tree belts and hedging around the field boundaries and along the main road. Against this must be balanced the location of the site on slightly higher ground than the main road and the fact that there is a public footpath running across the land to the south and east. Whilst this facility will undoubtedly be visible from some public vantage points I do not consider that it would be unduly prominent and harmful to the countryside. Again, I would remind Members that a very similar development was previously deemed acceptable.

5.4.7 I have specifically raised the issue of whether the facility could be accommodated in the more urban surroundings of the Parkwood Industrial Estate. The response from the transmission network planner is that the industrial estate is too far away to provide the necessary coverage to the target area and even a large mast there would not make a significant difference to the coverage in the target area.

5.4.8 In conclusion I consider the scheme acceptable. Whilst the countryside is protected, this is not a specially designated area and the general theme of PPG8 is that new telecommunications development should be accepted unless there are sound reasons for objection. I recommend that planning permission be granted.

6.0 RECOMMENDATION

GRANT PLANNING PERMISSION subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission;

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping, using indigenous species which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development and a programme for the approved scheme's implementation and long term management. The scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment

and Landscape Guidelines;

Reason: No such details have been submitted.

3. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building(s) or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation;

Reason: To ensure a satisfactory setting and external appearance to the development This in accordance with Policy ENV28 of the Maidstone Borough-Wide Local Plan 2000.' to the end of the reason for conditions 2 and 3.

4. The mast and associated development shall be removed from the land and the land restored to its former condition in the event that the equipment is no longer required for telecommunications use;

Reason: To prevent unjustified development in the countryside in accordance with Policy ENV28 of the Maidstone Borough-Wide Local Plan 2000.

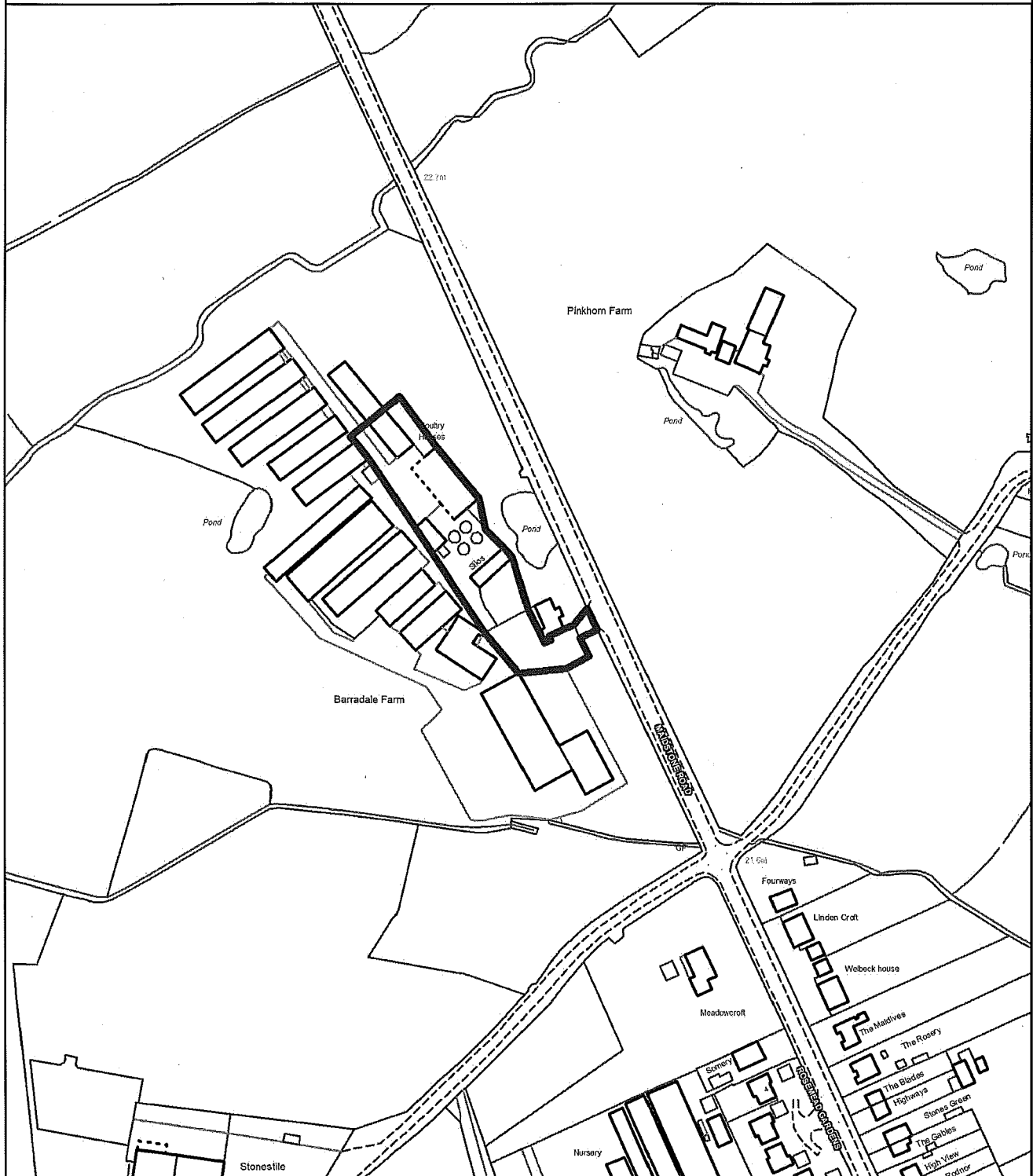
The proposed development, subject to the conditions stated, is considered to comply with the policies of the Development Plan (Maidstone Borough-Wide Local Plan 2000 and South East Plan 2009) and there are no overriding material considerations to indicate a refusal of planning consent.

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/09/1831

GRID REF: TQ8245

UNIT 7, BARRADALE FARM,
MAIDSTONE ROAD, HEADCORN.



This copy has been produced specifically for Planning and Building Control Purposes only. No further copies may be made. Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationary Office ©Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. The Maidstone Borough Council No. 1000019636, 2009. Scale 1:2500



Alison Broom
Director of Prosperity and Regeneration

APPLICATION: MA/09/1831 Date: 7 October 2009 Received: 15 December 2009

APPLICANT: Mr J Claydon, The Emporium

LOCATION: UNIT 7 BARRADALE FARM, MAIDSTONE ROAD, HEADCORN, KENT, TN27 9PJ

PARISH: Headcorn

PROPOSAL: Change of use of unit 7 to retail for the sale of horse, pet and agricultural feeds and sundries to include replacement of existing loading door with glass door and security shutter as shown on drawing nos. 29.129.1, HBP/005a, Bpe/04007 and A4 site location plan received on 9th October 2009 and Supplementary Retail Statement received on 17th December 2009.

AGENDA DATE: 25th February 2010

CASE OFFICER: Richard Timms

The recommendation for this application is being reported to Committee for decision because:

- it is a departure from the Development Plan

1. POLICIES

Maidstone Borough-Wide Local Plan 2000: ENV28, ENV34, R1, R12, T13
The South East Plan: SP3, CC1, CC6, C4, RE3
Government Policy: PPS1, PPS4, PPS7

1. HISTORY

MA/09/1603 Units 1 & 2: Change of use to B2 agricultural machinery and equipment service and repair, ancillary rear storage area including front display area for CLAAS agricultural machinery – APPROVED WITH CONDITIONS

MA/08/2300 Demolition of existing farm buildings and erection of B2/B8 building, associated parking and the change of use of existing poultry buildings and associated parking to B2/B8 – APPROVED WITH CONDITIONS

MA/04/1112 Change of use to B1(c) industrial – APPROVED WITH CONDITIONS

Applications before 2004 relate mainly to agricultural development in connection with the former agricultural use of buildings at Barradale Farm.

2. CONSULTATIONS

- 3.1 **Headcorn Parish Council:** Wishes to see the application APPROVED with a condition that in the event of a change of ownership that it remains only an agricultural retail unit.

"The Parish Council fully supports this move as the existing site in Wheeler Street has caused concern for sometime as the area is unsuitable for large vehicles to park and is not a suitable area for unloading of goods from lorries. We would not wish to see this business move away from Headcorn as it is an asset to our business network and they play an important part in sponsoring key events throughout the year."

- 3.2 **Kent Highway Services:** No objections

3. REPRESENTATIONS

Neighbours: One representation offering support for the application:

- Business performs a valuable and necessary service to the many small-holders, livery yards, horse and pet owners in the vicinity, of which there are a large number.
- The site they presently occupy, although near the village, is far from ideal, as parking is often difficult due to the stores popularity and can, at times, be hazardous.
- It makes ecological sense for 'The Emporium' to be near its customers and not in an industrial estate some distance away.

4. CONSIDERATIONS

5.1 Site & Setting

5.1.1 This is an application for the change of use of Unit 7, Barradale Farm to retail for the sale of horse, pet and agricultural feeds and sundries and operational development involving the replacement of an existing loading door with a glass door and security shutter. The application site is within the open countryside for Development Plan purposes designated as part of the Low Weald Special Landscape Area.

5.1.1 The application site is a former poultry farm (Barradale Farm) that is currently being redeveloped for B2 use (general industrial) and B8 use (storage and

distribution) in accordance with planning permission MA/08/2300 granted in July 2009. It is located off the west side of the A274 Maidstone Road around 700m north of the edge of the village settlement of Headcorn and around 1.6km from its retail centre. The site is served by a wide access point towards the southern end of the built group. The site consists of a range of closely grouped buildings, of utilitarian design, set on an extensive series of hardstandings, internal roadways, parking areas, etc. The site is clearly visible from the road although there is some hedge screening to the roadside and a line of willows to the northern boundary. The buildings and hardstandings are set back around 25m from the road, where there is a grassed area with sporadic trees.

- 5.1.2 The permission for business use approved a redevelopment of the former Barradale Farm poultry buildings, involving the demolition of eight buildings and the retention of seven for these uses. Most of the retained buildings have been re-clad with olive green cladding to walls and grey cladding to roofs.
- 5.1.3 Unit 7 subject to this application comprises one of the retained buildings and provides approximately 450m² of ground floor area, which is below the Local Plan threshold to be regarded as major retail development. This unit is along the east side of the site and is the building nearest the Maidstone Road, being set back around 25m. There is a dwelling around 50m south of the building just to the north of the access to the site. This is outside the application site and I understand this was formerly used directly in association with the egg production plant. Otherwise, the site is well divorced from residential property. There is a large building at the southern end of the built group outside of the application site which is used for commercial purposes pursuant to permission MA/04/1112.

5.2 Proposed Development

- 5.2.1 The application proposes a change of use of Unit 7 to retail, to enable the relocation of 'The Emporium', an agricultural, equestrian and pet feed centre currently located off Wheeler Street within the settlement boundary of Headcorn. A sales area of around 300m² would be provided in the southern part of the building and a storage area of around 150m² in the northern part. External alterations proposed are the removal of the existing personnel door and middle loading door on the front, west side of the building and the provision of a new customer door, 4m wide by 2.2m high, which will be a glazed sliding door with an external security shutter. Security shutters would also be provided to the two end fire exit doors.
- 5.2.1 The applicant considers that the specialised and bulky nature of goods sold by 'The Emporium', associated predominantly with agricultural and equestrian merchandising, would be more appropriately located at Barradale Farm where provision can be made for accommodating the necessary delivery and collection vehicles. It is stated that the business has changed from being 'pet orientated' to

'agricultural/equestrian' orientated with more turnover of bulky volumes items associated with equestrian and agricultural requirements. Therefore the business has changed over the past five to six years and as a consequence there have been increases in the size and number of delivery vehicles and volume of deliveries and sales.

5.2.2 'The Emporium' is predominantly surrounded by residential properties. The forecourt of the building is considered small and not sufficient to accommodate the vehicles generated by the operations, which include a predominance of four wheel drive vehicles, horse boxes and vans, in addition to delivery vehicles such as articulated vehicles and small lorries. Unloading is carried out by forklift, which results in conflict with customers. The access is across the front pavement used by pedestrians and vehicles also stop on the A274. It is considered that the current location is no longer satisfactory in terms of highway/pedestrian safety.

5.3 Background Information

5.3.1 'The Emporium' is located at the former Wheeler Street Depot, Wheeler Street, Headcorn for which permanent permission was granted in 1990 under application MA/90/1647 for the sale of horse, pet and garden sundries ancillary to agricultural merchandise. This was not a personal permission but the description limited the goods that could be sold.

5.3.1 It comprises around 420m² ground floor area with a small mezzanine office. The floor area is divided into two sections, with one section used to store bulky feeds and bedding, of which approximately 70% of stock volume is for horses, chickens, sheep and pigs, with 30% of stock for dogs, cats, birds and small pets. The other half of the building is used to display and sell horse and stable sundries, smaller packets of food, ancillary pet items and medicines. Approximately 10% of the space within this half of the building is used for the display of outdoor and riding clothing.

5.3.2 In terms of sales, the bulk feeds and beddings comprise approximately 70% of sales including 10% delivery sales to kennels, riding schools, stables etc. The remaining 30% of sales are from the ancillary goods. I would summarise the business as being predominantly a bulky goods retailer of equestrian, pet and animal feedstuffs and bedding with ancillary goods.

5.4 Principle of Development

5.4.1 The explanatory text to general retail policies R1 and R2 within the Local Plan outline a sequential approach to the location of retail development, aiming to maintain and enhance the existing retail facilities in Maidstone town centre, the local centres and the villages by focussing development here. It outlines that retail uses in the open countryside, aside from farm shops, will generally be

discouraged and not usually permitted because of the need to protect village shops, preserve the countryside and because of the unsustainable nature of such uses in these locations. As such, general retail policy R1 of the Local Plan outlines that retail development will be permitted within the defined urban and village areas.

- 5.4.1 Local Plan policy R2 does not regard this proposal as major retail development being under the 500m² threshold, and therefore it is not subject to more a stringent assessment at a local level.
- 5.4.2 Clearly, the site is located outside any settlement boundary and within the countryside for the purposes of the Development Plan and as such retail development here is discouraged for the reasons outlined above. Therefore in Local Plan terms it needs to be considered whether these proposals would harm other retail centres, the countryside and are unsustainable, and whether there are special circumstances where permission may be granted as a departure from the Development Plan, which is the applicants view.
- 5.4.3 More relevant in my view, due to its recent publication (29th December 2009) is government advice contained within PPS4: Planning for Sustainable Economic Growth. This document sets out the government's policies for economic development, which includes retail development. This document contains policies relevant to this development and so this document and its policies will form the main basis for the assessment of this application.

5.5 Assessment

- 5.5.1 Relevant to the proposals, at paragraph EC6.2, PPS4 advises that Local Planning Authorities should strictly control economic outside settlements; identify local service centres and locate most new development in or on the edge of existing settlements; support the re-use of appropriately located and suitably constructed existing buildings in the countryside (particularly those adjacent or closely related to towns and villages) for economic development.
- 5.5.1 National Policy EC17 of PPS4 relates to the consideration of applications for development of main town centre uses (both retail and business) not in a centre and not in accordance with an up to date Development Plan. I consider the retail use under consideration here is regarded as a 'main town centre use' as in principle it could be located within a town centre. This policy states that such proposals should be refused where:

- a) *the applicant has not demonstrated compliance with the requirements of the sequential approach (policy EC15); or*

- a) *there is clear evidence that the proposal is likely to lead to significant adverse impacts in terms of any one of impacts set out in policies EC10.2 and 16.1 (the impact assessment), taking account of the likely cumulative effect of recent permissions, developments under construction and completed developments*

5.6 Sequential Approach

- 5.6.1 National Policy EC15 of PPS4 outlines the consideration of sequential assessments. This application involves the relocation of an existing business from an 'out-of-centre' location (a location which is not in, or on, the edge of a centre but not necessarily outside the urban area) as defined in PPS4 to an 'out-of-town' location (an out of centre development outside the existing urban area).
- 5.6.1 The applicant does not consider it is appropriate or realistic to consider the town centres of Maidstone or Ashford as it is considered that these locations are neither suitable nor viable for the specialised and predominantly bulk goods sold. The bulk feeds and bedding are retained in the storage area until purchased, when they are then fork-lifted to the customer's vehicle or delivered by the business if too large. I agree that one would not typically expect such a specialised bulky goods retail use to necessarily be located within a 'primary shopping area' such as a 'High Street'. I also consider that the goods sold are relatively low in value and do not have a high turnover say as a typical town centre shop, so such a location is less viable.
- 5.6.2 An 'out of centre' location such as a retail park or trading estate or close to a district or local centre would be the next preferable location in sequential terms. The applicant has searched three alternative sites on the basis of its customer catchment area. The three sites within the current customer catchment area are at Parkwood, Maidstone, Foreman's Walk, Headcorn and Eureka Park, Ashford. The Parkwood site is considered to be too large and expensive (4000m²) and would increase travel distances for customers and does not have retail consent. The site at the Foreman's Walk is considered to be too small (80m²) with access issues for bulk goods deliveries and the Eureka Park retail units are considered to be too small (255m²) and not suitable for bulk equestrian/agricultural sales. The applicant submits that he has been searching for alternative premises for over 5 years due to the growth within the business and the unit at Barradale Farm is the only unit which is suitable, available and viable. Whilst not a comprehensive assessment, this shows that an 'out of centre' location is too expensive and that there are no suitable premises within the Headcorn settlement boundary.
- 5.6.3 In addition, the emphasis of much of the applicant's case is that this particular retail use is not suited to a town centre or an edge of centre location due to the local rural nature of the business and its customer base being mainly located

away from these areas. It is submitted that a re-location to an edge of town location would provide a less sustainable alternative for an essentially rural service. 'The Emporium' serves a mainly rural catchment area as demonstrated by its 'loyalty membership scheme' with some 93% of its members within just over 6 miles of the existing site. This being mainly the villages of Headcorn, Staplehurst, Marden, Sutton Valence, Cranbrook, Biddenden as well as the western fringes of the Ashford Borough and southeast fringes of Maidstone.

- 5.6.4 Clearly, the main purpose of a sequential approach is to provide development at the most sustainable locations and reduce the need to travel, especially by car. Therefore, I consider the issue of sustainability is a major consideration. I agree with the applicant that an 'edge of town centre' location (locations which are well connected to the town centre by means of easy pedestrian access) in Maidstone or Ashford is likely to increase most vehicle journeys to this local business due to the location of the majority of customers. However, such a location does provide opportunities for combined journeys for other services or goods in or on the edge of a town. However, due to the specialised bulk goods sold, customers are most likely to 'stock up' with as much of the goods as possible, rather than to combine a visit with journeys for other goods. On this basis, I consider the potential for linked trips for this business are low and it would be unreasonable to force such a use to an edge of town centre location.
- 5.6.5 Notwithstanding this, the new site is not remote and being on the A274, one of the main southern arterial routes into Maidstone, there is still the potential for customers to visit the shop as part of a wider trip either to Maidstone or Headcorn. So in terms of sustainability and therefore the impact upon the environment, I consider this is likely to be worse if this specific business was located in, or on the edge of a town due to the rural customer base.
- 5.6.6 My conclusion is that in the case of this specific business, it would not be reasonable or practicable for it to relocate to a town or edge of town location as this would not be viable or sustainable. Clearly, this is not a new business and therefore one has to also compare the impacts between the existing and proposed site.

5.7 Impacts of Re-location

- 5.7.1 National Policy EC17 of PPS4 then requires clear evidence that the proposal is not likely to lead to significant adverse impacts taking account of the likely cumulative effect of recent permissions, developments under construction and completed developments and issues relating to sustainability and accessibility, design, impact upon the economic and physical regeneration in the area and the impact upon local employment. Other matters relate to impacts upon public and private investment in a centre, town centre vitality and viability, allocated sites

outside town centres, impact on trade/turnover in the wider area and the rural economy.

- 5.7.1 Some issues of sustainability and accessibility have been touched on above. The customer base is mainly vehicle-orientated because of the nature of the bulk goods sold and the location of the customers, with less than 6% of trade currently from people on foot. In terms of deliveries, the origin of the distributors is Ipswich, Chelmsford, Dartford and Aylesford, each comprising a HGV delivery up to three times a week, with one delivery per month from Cranbrook.
- 5.7.2 To my mind, the relocation to Barradale Farm would not significantly affect the number of customer vehicle movements to the business or the distance travelled. At present around 93% of customers drive to the existing premises, due to the nature of the specialised bulk goods and clearly this would be similar if not the same for the new location. The relocation would reduce the ability of some customers to walk to the business, being further outside the village but this represents a small percentage of the customers. Staff could potentially walk, cycle or use the bus service, which runs past Barradale Farm (bus stop within 200m), and the relocation would not have any great impact upon the distance of delivery journeys to the site or delivery journeys carried out by the business to customers. On this basis, I do not consider the Barradale Farm site represents a significantly more unsustainable location for 'The Emporium' in terms of journeys for customers, staff or deliveries. Due to the specialist goods on sale, I consider it unlikely that the site would attract any significant additional 'urban' trade.
- 5.7.3 Overall, I do not consider the Barradale Farm site would be significantly more unsustainable than the existing site for use by 'The Emporium'; the site is not remote and there is a choice of transport to the site; the site is relatively closely related to Headcorn village; and the site would not significantly affect local traffic levels or congestion. To my mind the proposed site, specifically for use by the 'The Emporium' would not lead to any significant adverse impacts in terms of accessibility and sustainability.
- 5.7.4 In terms of design issues, external works to the building are limited and in my view would not result in any harm to the existing building, surrounding site or landscape.
- 5.7.5 Due to the relatively small scale of the retail use I do not consider there would be any significant adverse impacts upon economic and physical regeneration in the area, local employment or public and private investment in town, district or local centres due to the minor difference in location and minor increase in size. The nearest similar shops are 'SCATS' at Marden, 'Charity Farm' at Cranbrook and 'Animal Feed Supplies' at Tenterden, which serve their local catchment areas

and would not be significantly affected. National retailer chains such as 'Pets at Home' in the retail parks at Maidstone and Ashford, are not direct competitors as they cater for the general pet market. The loss of the B2 or B8 use would result in a loss of employment but this would be minimal and the site is not a designated employment site.

- 5.7.6 I consider the businesses relocation just north of Headcorn would not result in any significant adverse impacts upon the vitality and viability of town, district or local centres, or trade/turnover in the wider area and rural economy. Clearly, the business currently operates within Headcorn and a move just to the north of the village would not alter the viability or vitality of other centres. I consider it unlikely that the Barradale Farm site would draw customers away from the urban or rural centres above the existing site. Due to the relocation, some passing trade may be lost from customers to the north of Headcorn but it would be gained from customers to the south so this is not a major issue. The relocation would only increase the existing floorspace by 30m² and still be only 300m² of trading space, which does not represent a significant increase or major retail proposal.
- 5.7.7 National Policy EC17 then says that where there are no significant adverse impacts, planning applications should be determined by taking account of the positive and negative impacts of the proposal, and any other material considerations and the likely cumulative effect of recent permission, developments under construction and completed developments.
- 5.7.8 The positive impacts of the proposed re-location would allow the business to modestly expand and remain as a local business to Headcorn, and to remove vehicle and pedestrian conflicts, noise and disturbance at the existing site on Wheeler Street. The negative impacts would be the potential loss of some customers on foot and passing trade from the village but as outlined above, this would be minimal. PPS4 offers support for the re-use of appropriately located existing buildings in the countryside (particularly those adjacent or closely related to towns and villages) for economic development where the benefits outweigh the harm. I cannot identify any significant harm from the relocation and therefore consider the proposal to be acceptable.

5.8 Other Matters

- 5.8.1 The use of the Unit 7 for retail is likely to represent an increase in vehicle movements above the permitted use for B2 or B8 use but this would not be significant in the context of movements associated with the entire site's use for B2 and B8 use. As such, I do not consider there would be any unacceptable implications for the dwelling adjacent to the access through noise or disturbance. A total of 16 parking spaces have been approved for the building for its B2 or B8 use, which would be allocated for the retail use. There are no locally adopted

standards and PPS4 recommends that maximum standards are set in order to encourage alternatives to the car. In this case many customers require their cars to transport the more bulky goods so I do not consider this provision of parking is unacceptable. I consider cycle parking provision should be provided to encourage staff or other customers to cycle to the site.

5.9 Conclusion

5.9.1 Ultimately this application seeks the relocation of an existing business and the decision is whether the business should be directed to a town centre, edge of town or another rural centre. To my mind, such relocation would not be the most sustainable option for this business in terms of cost and the environment, due to the specialist bulky goods sold and the subsequent customer base for these goods, which is predominantly in the rural areas. The proposed site would not result in any significant additional harm to the environment than the existing site. The relocation would not have any significant adverse impact upon the vitality or viability of town or rural centres and on this basis I consider that an approval of the development is acceptable. Clearly, this assessment relates specifically to the nature of 'The Emporium' business, due to the goods sold and its customer base and as such a condition restricting the goods sold must be attached to any grant of permission.

5. RECOMMENDATION

Subject to the expiry of the site notice and advert publicising the application as a Departure from the Development Plan and the receipt of no representations raising new issues, I be given DELEGATED POWERS to GRANT PLANNING PERMISSION subject to the following conditions:

1. The premises shall be used for the sale of equestrian, pet and animal feedstuffs, bedding and ancillary goods only and for no other retail purpose (including any other purpose in Class A1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 as amended by the Town and Country Planning (Use Classes) (Amendment) (England) Order 2005 or permitted under the provisions of the Town and Country Planning (General Permitted Development) Order 1995 or any statutory instrument revoking and re-enacting those Orders with or without modification). The amount of ancillary non-bulky goods sold at the application site, as a percentage of total annual sales turnover (i.e. volume of sales multiplied by unit price for the business year 1st April to 31st March), shall be limited to no more than 30%, and a financial log of the annual sales turnover shall be kept and made available for inspection by the Local Planning Authority;.

Reason: The use hereby permitted would not normally be allowed and permission has been granted only because of the exceptional circumstances of this retail

business. In addition, the unrestricted use of the building or land would result in an unsustainable form of development that would threaten the vitality and viability of local centres contrary to policy R1 of the Maidstone Borough-Wide Local Plan 2000 and PPS4: Planning for Sustainable Economic Growth.

2. No open storage of materials, products, goods for sale or hire or waste shall take place on the application site;

Reason: To safeguard the character and appearance of the surrounding area in accordance with Policy ENV28 of the Maidstone Borough-Wide Local Plan 2000.

3. No activity in connection with the use hereby permitted including deliveries shall be carried out, and no customers shall be permitted to be on the premises outside of the hours of 0800-1800 Mondays to Saturdays and between 1000 and 1600 on Sundays, Bank or Public Holidays;

Reason: In the interest of residential amenity in accordance with Policy ENV28 of the Maidstone Borough-Wide Local Plan and PPS1.

4. Prior to the commencement of the development hereby permitted, details of any external lighting shall be submitted to and approved in writing by the Local Planning Authority;

Reason: To safeguard visual and residential amenity in accordance with Policy ENV28 of the Maidstone Borough Wide-Local Plan 2000.

5. Prior to the commencement of the development hereby permitted, details of new secure cycle parking shall be submitted to and approved in writing by the Local Planning Authority and shall be installed prior to the first occupation of the buildings or land and thereafter kept available for such use;

Reason: In the interests of sustainable transport promotion in accordance with PPS1 and PPG13.

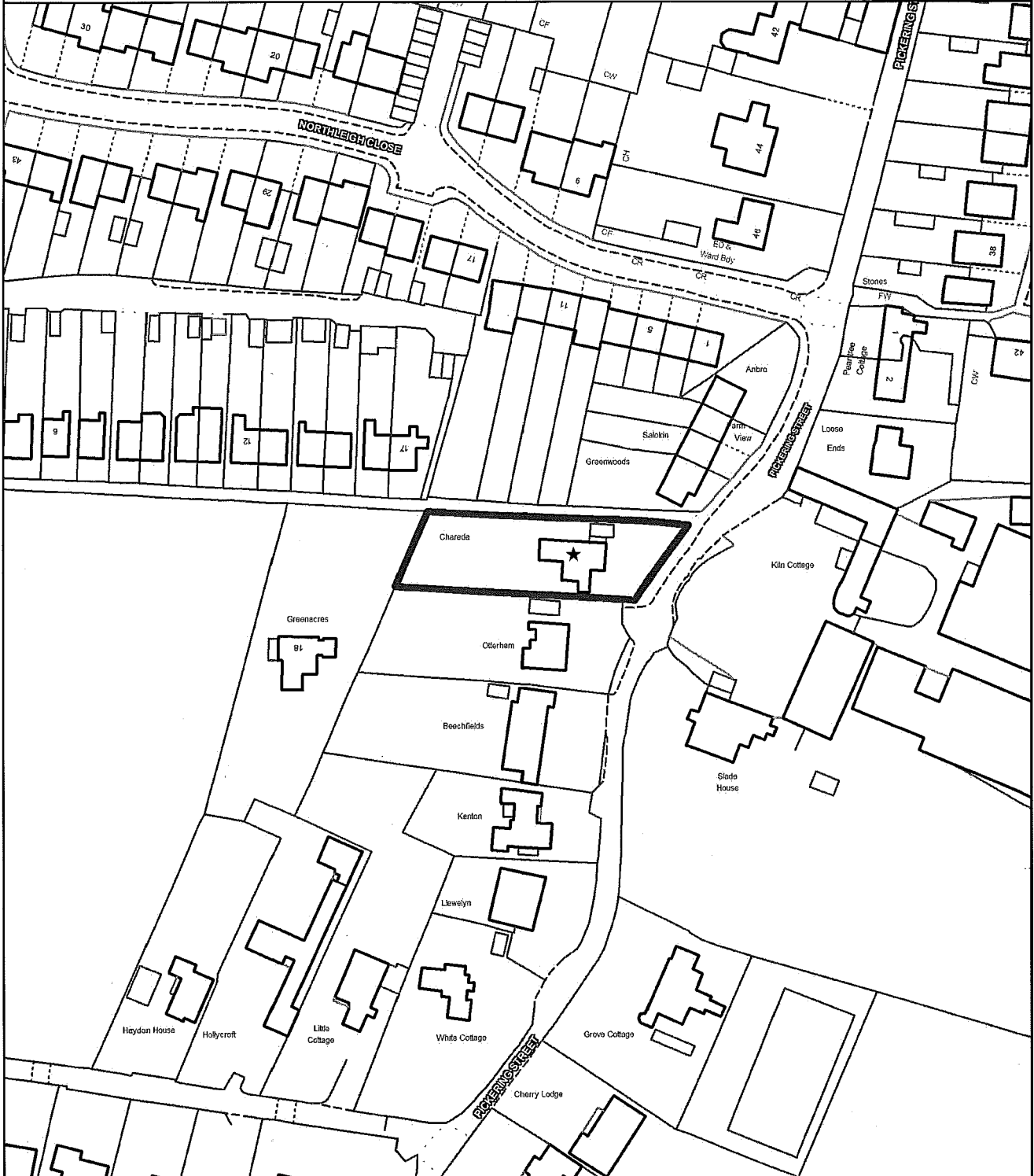
The proposed development, subject to the conditions stated, is considered to comply with the policies of the Development Plan (Maidstone Borough-Wide Local Plan 2000 and South East Plan 2009) and there are no overriding material considerations to indicate a refusal of planning consent.

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/09/1883

GRID REF: TQ7652

CHAREDA, PICKERING STREET,
LOOSE.



This copy has been produced specifically for Planning and Building Control Purposes only. No further copies may be made. Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationary Office ©Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. The Maidstone Borough Council No. 1000019636, 2009. Scale 1:1250



Alison Broom
Director of Prosperity and Regeneration

APPLICATION: MA/09/1883 Date: 15 October 2009 Received: 19 October 2009

APPLICANT: Mr C Chell

LOCATION: CHAREDA, PICKERING STREET, LOOSE, MAIDSTONE, KENT, ME15 9RH

PARISH: Loose

PROPOSAL: Demolition of existing bungalow and erection of 2 (no) new dwellings in accordance with plans numbered 014.1179.23B; 014.1179.27; 014.1179.28; 014.1179.29; 014.1179.22A; 014.1179.19; 014.1179.20A; 014.1179.26; 014.1179.25; 014.1179.31; and the design and access statement received by the Local Planning Authority on the 25 October 2009.

AGENDA DATE: 25th February 2010

CASE OFFICER: Chris Hawkins

The recommendation for this application is being reported to Committee for decision because:

- It is contrary to views expressed by Loose Parish Council

POLICIES

Maidstone Borough-Wide Local Plan 2000: ENV6, T13
South East Plan 2009: CC4, NRM11, T4, CC1, T4, H5, W1, W6, BE1
Village Design Statement: Loose Road Area Character Assessment
Government Policy: PPS1, PPS3, PPS9, PPG13

1.0 HISTORY

1.1 There is no planning history relevant to this application site.

2.0 CONSULTATIONS

2.1 Maidstone Borough Council Environmental Health Officer was consulted and made the following comments: -

2.1.1 'The proposed dwellings will be sited in a residential area of south Maidstone. Transportation noise is not an issue at this site. The Council's contaminated land database shows that contamination is unlikely at this site. The normal

informatives relating to dust, odour and noise should be added to any consent granted.'

2.2 Kent Highway Services were consulted and made no comment on this application. I have therefore commented myself on this application, within the main body of the report.

2.3 Loose Parish Council were notified and objected to this proposal on the following grounds: -

2.3.1 'The Loose Parish Council wish to see the application refused and request the application is reported to the Planning Committee for the following reasons;

2.3.2 The proposed development will affect the street scene, as the height, size and mass is excessive in relation to adjacent properties and overwhelms the site. It will also be a dominant feature close to the side of the road as the proposed structure in plot 1, will in effect be moved, into what is now, the front garden. The dwelling proposed for plot 2 will particularly be overwhelming. Consideration should be given to the fact that this property will no longer be opposite an open industrial site but will be opposite a new housing estate, following the acceptance of the Leonard Gould site development (*see MA/09/1535*), and in view of it's mass and bulk any feeling of open rural aspect will be lost. This development will also add to the problems of extra traffic and pedestrian movements.

2.3.3 There are concerns over the limited parking, and would question the parking allowance given to the proposed properties. We would like to add, that we do envisage that more cars will be parked in Pickering Street by residents from the new development.

2.3.4 Concerns have also been raised over the apparent loss of the grass verge to the east side, which affects the rural character of the road. With the loss of the grass verge this will inevitably encourage cars to drive and park over the pavement, which is considered to be a hazard to pedestrians as there is little or no pavements in Pickering Street as it is.

2.3.5 We would draw your attention to (page 21 para 6) of the 'Loose Road Character Assessment' document which refers to Pickering Street as "...narrow, and strongly enclosed by tall hedges and trees. It is rural and secret in character". Also (page 38 par 2) "..... the character of Pickering street changes abruptly as the road constricts and is bordered by high hedges and trees, becoming a strongly enclosed rural lane".

2.3.6 The design of the dwellings is considered to be 'off the peg' and is not in keeping with other houses in the area. They are also not considered to be high quality which we would expect in Loose.

2.3.7 Clarification of the boundary to the footpath is needed as we would not wish to see a footpath reduced in width. We urge you to consider carefully that this development will attribute to the erosion of the rural character of the Pickering Street area in view of its mass, bulk and overwhelming stature. Also the fact that 65 new dwellings are to be built on the former Leonard Gould area opposite this site, and that this development will further exasperate the problems of extra traffic movements, and which in turn create more hazards to pedestrians, in particular that now there is a Kindergarten using the Scout HQ on a blind bend in Pickering St.'

3.0 REPRESENTATIONS

3.1 Neighbouring properties were notified and nine letters of objection have been received. The main concerns within these letters are summarised below: -

- The proposal would result in overlooking of neighbouring properties;
- Access to the properties would be across private land;
- The proposed dwellings are too large for the plot, and would be out of character;
- The existing trees alongside the footpath shall be retained;
- The proposed buildings will result in the loss of more light to the footpath;
- The proposal would bring the building line forward;
- The access would be a hazard to pedestrians;
- The loss of the hedgerow would be to the detriment of the wildlife in the area.

4.0 CONSIDERATIONS

4.1 Site Description

4.1.1 The application site is located within the urban confines of Maidstone, upon land which has no designation within the Local Plan. The site currently contains a single storey dwelling, which is set back from the road by approximately 10-15metres (the road curves away from the property) with a large rear garden which is adjacent to a public footpath. The property currently has a garden of a depth of approximately 27 metres, and a width of 16.5metres. It has a hedge along its northern and western boundary, with a low fence and shrubs along the southern boundary.

4.1.2 To the south of the application site is a two storey detached property known as 'Otterham' which has an attached garage adjacent to the boundary with the site.

This property has a large number of trees and shrubs within its front garden with a relatively open rear garden. There is a low fence running along the boundary with the application site, with a small amount of planting which provides some additional screening – although in many places, direct views are afforded into the rear of 'Otterham' from the site.

- 4.1.3 To the north of the application site is a row of two storey terraced properties, built within the mid 20th Century. These are much closer to the highway, being set back some 4-5metres from the edge of the road. These properties also have shorter rear gardens than the application site, being approximately 18metres long. Behind these terraced properties are the rear gardens of properties within Northleigh Close – a mid 20th Century development. There are a number of substantial trees at the end of the gardens of these properties.
- 4.1.4 To the east of the application site is the former Leonard Gould Site, which has recently been granted planning permission for residential redevelopment (MA/09/1535), with demolition currently underway. This will see the erection of 65 dwellings within the site, together with associated landscaping and highway improvements. One of these highway improvements would see the re-alignment of the access, to make the right of way from the new development. It is not considered that this would have any impact upon this application.
- 4.1.5 To the west of the application site is a row of terraced properties, which appear to be of early twentieth century construction. These properties front on to the public footpath the runs adjacent to the site. A detached property lies directly to the rear of the application site, which is well screened by a significant level of soft landscaping.

4.2 Proposal

- 4.2.1 The proposal is for the erection of two detached dwellings, following the demolition of the existing property on the site. The property to the front of the site would be a two storey dwelling, with a single storey property proposed to the rear.
- 4.2.2 The property to the front of the site would be a full two storey, and would have brick elevations at ground floor, and timber weatherboarding at first floor level. The property would have a maximum width of 11metres, a depth of 12metres, and a maximum height (to ridge) of 8.7metres. The dwelling would have a gable projection to the front, and a porch located centrally within the front elevation. The dwelling would be set back between 7 and 10metres from the edge of the highway. It is proposed that an area of hardstanding be provided within the front garden area of this property for car parking. The property would have a garden of the depth of 11metres, and a width of 13.5metres. A 1.8metre high close boarded fence is to be provided along the side boundary along the access.

- 4.2.3 An access road constructed of permeable paving is to be provided to the north of plot one, which will run alongside the existing path. This would have a length of some 30metres, before entering the grounds of plot two.
- 4.2.4 Plot two, at the rear of the site is a one and two storey property of relatively contemporary design. It would have a two storey façade facing onto the path, and a large catslide roof to the rear, reducing down to single storey closer to the boundary with 'Otterham'. This property would have a maximum width of 23metres, a maximum depth of 11.5metres, and a maximum height of 6.8metres. An area of permeable paving would be provided to the front of the property, and a garden area is to be provided to the rear. This garden would have a maximum depth of 8metres, and a width of 15metres.
- 4.2.5 All substantial trees within the locality are to be retained.

4.3 Principle of Development

- 4.3.1 As previously stated, the application site is located within the urban confines of Maidstone, and upon previously developed land as defined within Annex B of PPS3. As such, the principle of development on this land is considered acceptable subject to all other material considerations being met.

4.4 Visual Impact

- 4.4.1 It is considered that the proposal would respond to the existing grain and pattern of development within the locality. Of importance in determining this application is the Loose Road Area Character Assessment, which refers directly to Pickering Street. This document identifies this particular part of Pickering Street as being of 'mixed character'. It also identifies that beyond the former Leonald Gould works – past Slade House – the street becomes more of a rural lane. However, the application site lies firmly within the more built up part of the street. As such, in permitting any new development, it is important to ensure that this mixed, varied character be maintained, and that the views further down the street, into the more rural aspect are respected.
- 4.4.2 Concern has been raised at the loss of the openness of the front of the existing property, through the erection of a two storey property closer to the highway. Whilst this undoubtedly would see an erosion of this open space, this would not appear out of context within this location. To the north of the application site (beyond the pathway) are two storey dwellings which are in close proximity to the highway. To bring development forward on this site would not therefore appear unduly incongruous at this particular point.
- 4.4.3 The design of the proposal is considered to be of a sufficient standard, and is not dissimilar to those recently approved to be sited opposite the site within the

Leonard Gould site – with brick at ground floor and timber cladding above. The gable projection gives the building an element of interest, and depth. A significant area has been proposed to be given over as hardstanding, and I therefore proposed that should permission be granted, this be significantly reduced, with only a driveway provided to serve the dwelling, plus the access road running to the side. Should a good level of landscaping be provided, this would soften the appearance of the development, to its benefit.

4.4.4 The property to the rear would be substantial in terms of its floor space, but would not be as high as plot one. It would therefore appear as being more subordinate, as one would expect with backland development of this nature. The design of this property is relatively contemporary, although again brick ground floor and timber first floors are proposed. The first floor would overhang the ground floor by approximately 800mm, giving an element of interest, and layering to this property. The property would be orientated in such a way that it would face on to the footpath - as a number of other properties do within the locality. This is considered to be acceptable, and give this pathway extra natural surveillance. Whilst of substantial size, I do not consider that this proposal would appear bulky within this location, due to the level of articulation (it is, in part, set back) and by virtue of the soft landscaping to be provided. In any event, it would appear as no greater in bulk than the existing row of terraced properties on the opposite of the footpath.

4.4.5 I therefore consider that this proposal would not have a significantly detrimental impact upon the character and appearance of the locality, and as such does not warrant a refusal in this instance.

4.5 Residential Amenity

4.5.1 Plot one is set forward of the neighbouring property to the south ('Otterham') but further back from the neighbouring properties to the north. Neither of these properties would be adversely impacted by the pushing forward of the building line, and the erection of this larger property. Due to the level of separation (9metres from 'Otterham' and 10metres from 'Greenwoods') there would be no creation of a sense of enclosure, or a resultant loss of light. There would be no windows proposed that would result in direct overlooking of these neighbouring properties, or their private amenity space.

4.5.2 Plot two however would have a greater impact, in particular upon the occupiers of 'Otterham'. However, the proposal has been designed in such a way that would restrict this impact somewhat. There would be no first floor windows that would directly overlook this neighbouring property, and in particular its private amenity space. Whilst two first floor windows are proposed (serving bedrooms) these are set at the western end of the southern elevation, and would be angled away from the neighbouring property. As such any overlooking would only result

at the very end of this garden, and not the area immediately adjacent to the dwelling in question. I do not consider therefore, that there are sufficient grounds for refusal on the basis of overlooking to this property.

- 4.5.3 Concern has also been raised that the proposal would directly overlook the properties to the north, in particular their gardens. However, these are well screened by trees and shrubs (which are to be retained) and in any event, the overlooking would be across an area within the public domain. It should be noted that the terraced properties to the west are two storey, and located close to the footpath, and this would prove to have a similar effect.
- 4.5.4 The proposed ground floor rear projection would be in relatively close proximity to the boundary with 'Otterham.' However, at this point, this would have an eaves height of only 2.5metres, and as such would not appear as overbearing. It would not result in the loss of light to this neighbouring property. It should also be noted that the aforementioned neighbouring property is set some 6metres from the boundary, with a detached garage positioned between.
- 4.5.5 I am therefore of the opinion that the proposal would not have a detrimental impact upon the amenities of the neighbouring occupiers, and as such would accord with the policies within the Development Plan.

4.6 Highways

- 4.6.1 As stated above, Kent Highway Services were notified of this application, but did not make any comments. As such, I shall address this matter myself.
- 4.6.2 The parking provision within the site would be for at least two spaces per dwelling. Pickering Street is a relatively narrow lane at this point and as such, I consider that it is important that a suitable level of off street parking provision be made. The provision of two parking spaces for the front property, plus an additional area of hardstanding (which would be utilised as an access – but could also be used for visitor parking without a highway safety concern) is considered to be sufficient in this location. Indeed, the property to the rear would have scope for further parking provision, by virtue of the turning area provided. I would therefore conclude that this parking provision is acceptable within this location, and would not be likely to give rise to an overspill onto Pickering Street, to the detriment of highway safety.
- 4.6.3 I do consider, however, that there is an overprovision of hardstanding to the front of the site, and as such, I would suggest a condition that seeks to remove much of this, and to provide more soft landscaping. This would reduce the dominance of the hardstanding, whilst also allowing a sufficient level of parking.

4.6.4 With regards to the access, this utilises an existing area of hardstanding, and also creates another access to the south. These accesses are considered to provide sufficient visibility splays on either side, and would not have a detrimental impact upon highway safety.

4.6.5 It is therefore considered that there are no highway safety grounds to refuse this application.

4.7 Other Matters

4.7.1 As these are new dwellings, it is considered appropriate to require that the properties be built to level 3 of the code for sustainable homes. Policy CC4 of the South East Plan (2009) states that Local Authorities should be seeking new development to adopt and incorporate sustainable construction standards and techniques. As this is a small scale development, it is considered that it would be onerous upon the applicant to request a higher level than 3. As such it is considered that should a condition be imposed requiring a minimum of level 3 be met, the proposal would comply with the policies within the Development Plan.

4.7.2 As the application would see the erection of a new dwelling within the rear garden of an existing property, there would be the loss of open space within the locality. However, due to the small scale of this proposal, I am not of the opinion that this would be likely to give rise to the loss of habitat of any protected species. It is on this basis that no ecological survey has been requested. I do, however, feel it appropriate to suggest that bat/swift bricks be incorporated within the development, by means of an informative.

5.0 Conclusion

5.1 It is therefore concluded that the development would not have a detrimental impact upon the amenities of the neighbouring properties, the character and appearance of the locality, nor highway safety. It is therefore considered that this application accords with the policies within the Development Plan, and it is for this reason that Members are recommended to give this application favourable consideration and grant planning permission, subject to the conditions and informatives set out below.

RECOMMENDATION

GRANT PLANNING PERMISSION subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission;

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development shall not commence until, written details and samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the Local Planning Authority and the development shall be constructed using the approved materials;

Reason: To ensure a satisfactory appearance to the development in accordance with PPS1.

3. The development shall not commence until, details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details before the first occupation of the buildings or land;

Reason: To ensure a satisfactory appearance to the development in accordance with PPS1.

4. Notwithstanding the details shown on the submitted plans, full details of the proposed parking areas shall be submitted to, and approved in writing by the Local Planning Authority. Such details as submitted shall include a reduction in the level of hardstanding to the front of plot one, with increased levels of landscaping in its place.

Reason: In the interests of character and appearance of the locality, in accordance with PPS1.

5. Removal of existing trees or hedgerows containing nesting birds shall take place outside of the bird-breeding season (generally March to August).

Reason: To ensure the protection of biodiversity on the site, in accordance with PPS9.

6. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping, using indigenous species which shall include indications of all existing trees, hedgerows and boundary planted areas on the land, and details of any to be retained, together with measures for their protection in the course of development and throughout the scheme's long term management. The scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment and Landscape Guidelines. The submitted details shall include inter-alia full consideration of the protection of potential slow worm habitats in and around the marginal boundary areas during construction. The approved protection measures

shall be implemented before any equipment, machinery or materials are brought onto the site and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed, nor fires lit, within any of the areas protected in accordance with this condition. The siting of barriers/ground protection shall not be altered, nor ground levels changed, nor excavations made within these areas without the written consent of the Local Planning Authority;

Reason: No such details have been submitted and in the interests of the visual amenities of the locality, the safeguarding of existing trees, hedgerows, boundary planted areas and potential slow worm habitats to be retained in accordance with Policy ENV6 of the Maidstone Borough Wide Local Plan 2000 and PPS1 and PPS9, and the interests of the residential amenity in accordance with policies CC1 and CC6 of the South East Plan 2009 and PPS1.

7. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation;

Reason: To ensure a satisfactory setting and external appearance to the development in accordance with Policy ENV6 of the Maidstone Borough Wide Local Plan 2000, and PPS1.

8. The development shall not commence until, details of all fencing, walling and other boundary treatments have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details before the first occupation of the buildings or land and maintained thereafter;

Reason: To ensure a satisfactory appearance to the development and to safeguard the enjoyment of their properties by existing and prospective occupiers in accordance with PPS1 and PPS3.

9. The development shall not commence until, details of the proposed slab levels of the buildings and the existing site levels have been submitted to and approved in writing by the Local Planning Authority and the development shall be completed strictly in accordance with the approved levels;

Reason: In order to secure a satisfactory form of development having regard to the topography of the site in accordance with PPS1.

10. The dwellings shall achieve Level 3 of the Code for Sustainable Homes. No dwelling shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 3 has been achieved.

Reason: to ensure a sustainable and energy efficient form of development in accordance with policy CC4 of the South East Plan 2009, Kent Design 2000 and PPS1.

11. The rooflights shown within the rear roofslope of plot 2 shall be provided at a height of no less than 1.73 metres from the internal floor level.

Reason: In the interests of residential amenity in accordance with PPS3.

Informatives set out below

Attention is drawn to Sections 60 and 61 of the Control of Pollution Act 1974 and to the Associated British Standard Code of practice BS5228:1997 for noise control on construction sites. Statutory requirements are laid down for control of noise during works of construction and demolition and you are advised to contact the Environmental Health Manager regarding noise control requirements.

Clearance and subsequent burning of existing woodland or rubbish must be carried out without nuisance from smoke, etc. to nearby residential properties. Advice on minimising any potential nuisance is available from the Environmental Health Manager.

Plant and machinery used for demolition and construction shall only be operated within the application site between 0800 hours and 1900 hours on Mondays to Fridays and between 0800 hours and 1300 hours on Saturdays and at no time on Sunday and Bank Holidays.

No vehicles may arrive, depart, be loaded or unloaded within the general site except between the hours of 0800 and 1900 Mondays to Fridays and 0800 and 1300 hours on Saturdays and at no time on Sundays or Bank Holidays.

Adequate and suitable provision in the form of water sprays should be used to reduce dust from demolition work.

The importance of notifying local residents in advance of any unavoidably noisy operations, particularly when these are to take place outside of the normal working hours is advisable.

The developer shall implement a scheme for the use of wheel cleaning, dust laying and road sweeping, to ensure that vehicles do not deposit mud and other materials on the public highway in the vicinity of the site or create a dust nuisance.

Where possible, the developer shall provide the Council and residents with a name of a person and maintain dedicated telephone number to deal with any noise complaints or queries about the work, for example scaffolding alarm misfiring late in the night/early hours of the morning, any over-run of any kind.

Provision should be made for the separate storage of recyclables from household waste. Advice on recycling can be obtained from the Environmental Services Manager.

There shall be no burning of waste materials on site.

REASON FOR APPROVAL

The proposed development, subject to the conditions stated, is considered to comply with the policies of the Development Plan (Maidstone Borough-Wide Local Plan 2000 and South East Plan 2009) and there are no overriding material considerations to indicate a refusal of planning consent.

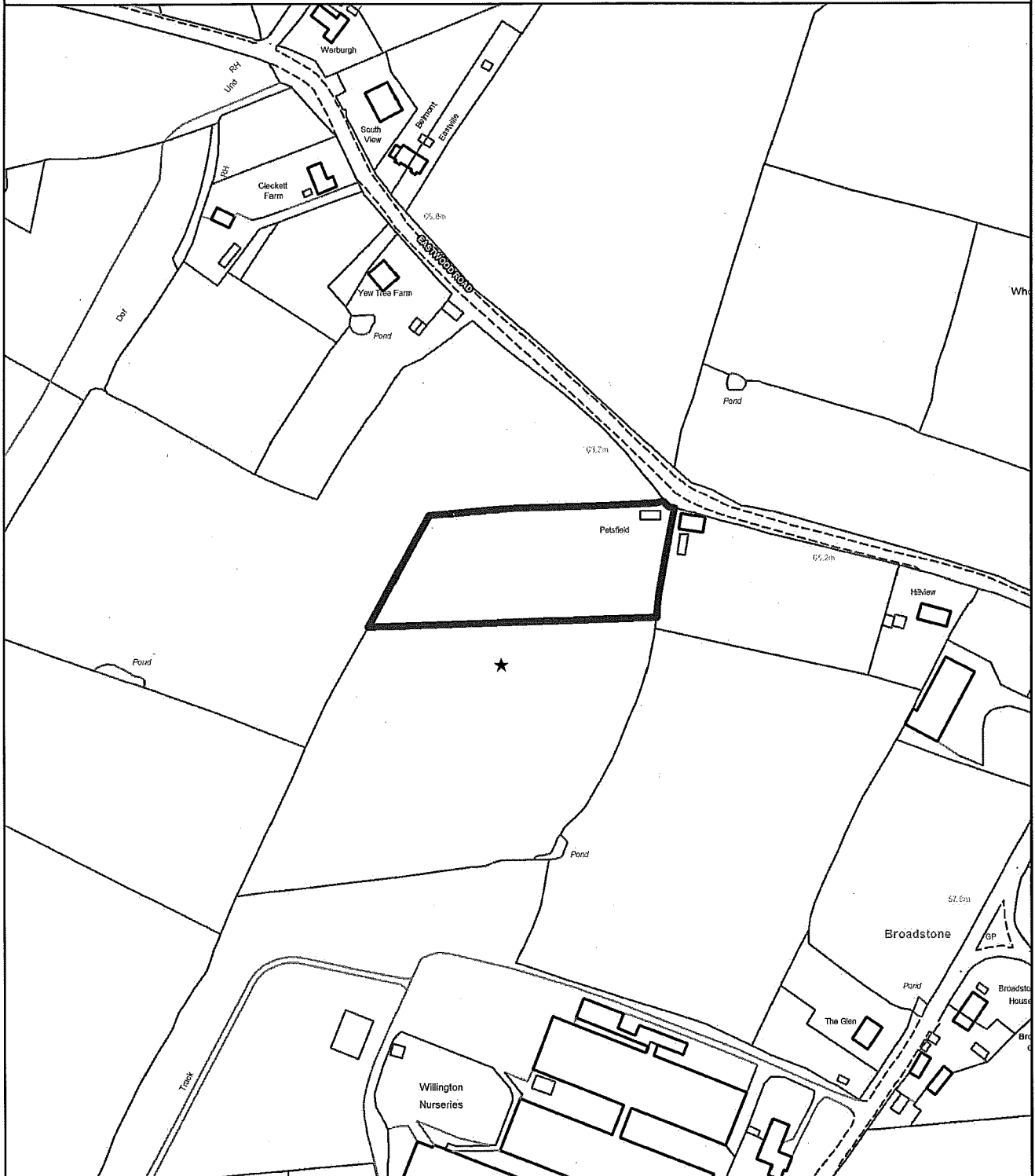
Agenda Item 20

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/09/1891

GRID REF: TQ8648

PETSFIELD, EASTWOOD ROAD,
BOUGHTON MALHERBE.



This copy has been produced specifically for Planning and Building Control Purposes only. No further copies may be made. Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationary Office ©Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. The Maidstone Borough Council No. 1000019636, 2009. Scale 1:2500



Alison Broom
Director of Prosperity and Regeneration

APPLICATION: MA/09/1891 Date: 16 October 2009 Received: 19 October 2009

APPLICANT: Noah & Mark Hilden

LOCATION: PETSFIELD, EASTWOOD ROAD, BOUGHTON MALHERBE,
MAIDSTONE, KENT, ME17 2DQ

PARISH: Boughton Malherbe

PROPOSAL: Change of use from grazing to residential for Gypsy family and
stationing of two mobile homes, one touring caravan, hardstanding
and associated works as shown on unnumbered site location plan
and unnumbered plan received on 19/10/09.

AGENDA DATE: 25th February 2010

CASE OFFICER: Peter Hockney

The recommendation for this application is being reported to Committee for decision because:

- it is contrary to views expressed by Boughton Malherbe Parish Council

1. POLICIES

Maidstone Borough-Wide Local Plan 2000: ENV28, ENV34, T13

South East Plan 2009: C4, H5

Government Policy: PPS1, PPS3, PPS7, PPS9, Circular 01/2006: *Planning for Gypsy and Traveller Caravan Sites*

1. HISTORY

MA/07/1516 – Change of use from grazing to residential for Gypsy family and stationing of two mobile homes and one touring caravan and installation of cesspool – WITHDRAWN.

2. CONSULTATIONS

3.1 Boughton Malherbe Parish Council wishes to see the application REFUSED and wishes it to be reported to Planning Committee for the following reasons:-

- The submitted ecological survey is flawed in its methodology.
- The development causes visual harm to the Special Landscape Area and the open countryside.
- The access is dangerous and on an unlit road.
- Pollution of adjacent fields and ditches caused by the cesspool.

- Concern that a precedent would be set for other similar developments.

3.2 Natural England is satisfied with the submitted survey information and that no great crested newts are present within the application site or any pond within 500 metres of the site. They are satisfied that no great crested newts are utilising ponds or terrestrial habitat that are to be affected by the proposals. They are satisfied that no reptiles are present within the application site. Natural England raises no objections to the application.

3.3 The County Gypsy Liaison Officer does not wish to make any comments on the application.

3. REPRESENTATIONS

4.1 Three letters of objection have been received on the following grounds:-

- The site address is incorrect.
- The drawings do not show all the development on site.
- The development is alien to the open countryside and Special Landscape Area.
- Concern that the submitted ecological survey is flawed and the development would be harmful to wildlife.

4. BACKGROUND

5.1 An enforcement investigation was originally opened in August 2006 with regard to the establishment of a caravan site. A previous application was submitted on this site (MA/07/1516) for a similar development being the change of use from grazing to residential for Gypsy family and stationing of two mobile homes and one touring caravan and installation of cesspool and was partly retrospective. This application was reported to Planning Committee with a recommendation for permission on 17 July 2008 but Members decided to defer the application for the following reasons:-

- (i) "That consideration of this application be deferred in order for an ecological survey (with particular regard to herptiles) to be carried out; and
- (ii) That a more detailed report be presented to the Committee when the results of the survey have been received."

5.2 Following this decision a number of letters were sent to the agent requesting the submission of the ecological report. No report was submitted and instead the application was withdrawn with a view to resubmitting an application when the report had been undertaken.

5.3 A new planning application (MA/09/1891) was submitted on the 22 October 2009, which included the submission of a Herptile Report, covering great crested

newts and reptiles, undertaken by Bramley Associates ecological consultants and surveyors, dated October 2009 and this is the application before Members tonight.

5. APPLICATION SITE

- 6.1 The application site is the northern part of an existing field within the open countryside, which also forms part of the Low Weald Special Landscape Area.
- 6.2 The site is predominantly grass, other than the northern most section where development has taken place. The remainder of the field to the south, which is also within the applicant's ownership is open grassland. The boundaries of the site are mature hedgerows and trees that are well established and not directly affected by the proposed development.
- 6.3 There is no external lighting proposed as part of this application. A hardsurfaced area adjacent to the access would provide the parking/turning area for the site with the only other hardsurfacing below the mobile homes.
- 6.4 The access point is in the north eastern corner of the application site onto Eastwood. This point is the only part of the site where the site immediately adjoins the boundary with Eastwood Road. The remainder of the northern boundary is separated from Eastwood Road by between 11 and 88 metres (approximately). To the east and west of the site are open fields.
- 6.5 The nearest residential property is Yew Tree Cottage (a grade II listed building), which is located approximately 96 metres from the site boundary in a north north west direction.

6. PROPOSED DEVELOPMENT

- 7.1 The application is retrospective and is for the change of use of land from grazing to residential for occupation by a gypsy family, including the stationing of two mobile homes and one touring caravan with hardstanding and associated works.
- 7.2 Those living on the site are Noah Hilden and his wife Josephine with their children (Josephine 18, Sherrey 18, Noah 10). The second mobile is occupied by Mark Hilden and his wife Barbara. The touring caravan on the site is kept empty and used for travelling and not permanent occupation.
- 7.3 Representations have been received with regard to a timber building that has been erected on site. This building does not form part of the application and does not have the benefit of planning permission.

7. CONSIDERATIONS

8.1 Gypsy Status and Need

8.1.1 Circular 01/2006 provides the following definition of gypsies and travellers:

"Persons of nomadic habit of life, whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling show people or circus people travelling together as such."

8.1.2 Paragraphs 17 and 18 of the Circular refers to the changing patterns of employment amongst gypsies and travellers and the fact that the community has generally become more settled. The Circular states that there is a need provide sites in locations that meet the current working patterns of gypsies and travellers.

8.1.3 The agent for the applicant has stated that the applicants meet the definition of a gypsy and that Noah and Mark Hilden travel together to find work. This work is mainly landscape gardening. The usual route is to Scotland and via Manchester and Penrith on the way there and on the way back.

8.1.4 *Planning Policy Statement 3: Housing* makes specific reference to the need to accommodate Gypsies and Travellers. *Circular 01/2006: Planning for Gypsy and Traveller Caravan Sites* gives guidance on how this should be achieved, including the need to start the process with a clear assessment of needs through Gypsy and Traveller Accommodation Assessments.

8.1.5 There is a clear and identifiable need for gypsy accommodation within the Borough that stems from the Gypsy and Traveller Accommodation Assessment (GTAA), which was undertaken in 2005/06 and covers four local authorities – Ashford, Maidstone, Tonbridge & Malling and Tunbridge Wells. Based on this assessment, there is a need for some 32 new pitches in the Borough over the five year period which equates to 6.4 pitches/year. The extremely low turnover of pitches on the Council sites, which is confirmed by the Council's Gypsy and Caravan Sites Officer, increases the yearly requirement by 2 to 3 pitches, meaning a yearly requirement of 8 to 10.

8.1.6 Work has begun on a gypsy DPD with consultation expected spring 2010 with adoption planned for July 2011.

8.1.7 At the time of writing this report the number of pitches allowed since 2006 is as follows:-

- 27 permanent permissions

- 9 temporary permissions
- 12 permanent with personal permissions
- 15 temporary with personal permissions

8.1.8 From the above information it is clear that there is a significant need for gypsy sites within the Borough. This need and the absence of any allocated sites is given significant weight by Inspectors when determining appeals.

8.1.9 The Council does not have any public sites available and there are no new designations for public sites.

8.1 Visual Impact

8.2.1 The site is within the open countryside and the Low Weald Special Landscape Area. There are established Local Plan policies with a presumption against most types of development including ENV28 of the Maidstone Borough-Wide Local Plan (2000). In addition the site is within the Low Weald Special Landscape Area where priority is given to landscape considerations in accordance with ENV35 of the Maidstone Borough-Wide Local Plan (2000).

8.1.2 However, within Circular 1/2006 it is stated that gypsy sites located in the countryside are acceptable in principle and that local landscape designations (which includes Special Landscape Areas) should not be used in themselves to refuse applications for gypsy accommodation.

8.1.3 The site itself and the caravans would be well screened by established hedging and mature trees along the northern boundary of the site and the boundary with Eastwood Road. The caravans and development would not be prominent from any public vantage points along Eastwood Road. Furthermore there would be no views from any public footpaths, the nearest being KH328 located approximately 170 metres to the west, that would be prominent. It is important to note that gypsy sites do not need to be hidden from view and therefore views of the caravans through trees or hedges are not generally held to be prominent in the landscape and unacceptable.

8.1.4 In terms of light pollution, one must accept the use of external lighting, although there is none proposed as part of this application, at any residential site whether a gypsy site or permanent dwelling and it is not considered that appropriate lighting would cause unacceptable harm to the area visually. However a condition restricting the use of flood lighting could be attached to any grant of permission to control this.

8.1.5 Without the development or residential use being prominent from any public vantage points it is considered that there is no significant demonstrable visual harm to the character and appearance of the surrounding area. In the absence of such harm, I consider that the impact on the character and appearance of the Special Landscape Area and open countryside to be acceptable.

8.3 Ecological Considerations

8.3.1 The submitted survey was undertaken by Bramley Associates ecological consultants and surveyors, dated October 2009. The survey work was undertaken in July-August 2009, with further information examined from a previous amphibian survey undertaken by the same company that centred on Yew Tree Farm to the north west of the site.

8.3.2 The survey that was undertaken on 8 separate visits indicates that the site consists of very short grassland that is grazed/mown and provides poor herptile habitat, except in a few limited areas adjoining surrounding hedgelines and found no evidence of great crested newts or reptiles. The report recommends an ecological enhancement in the form of a hawthorn hedgerow to be planted to the southern boundary of the application site to allow increased habitat connectivity for a range of animal and plant species. This requirement should be secured by way of a condition in accordance with the guidance in PPS9.

8.3.3 Boughton Malherbe Parish Council and neighbouring residents have raised concerns with regard to the competency and methodology of the report. However, Natural England are satisfied with the methodology of the report and its findings and raise no objections to the application. Therefore I have no reason to consider that the survey was not correctly undertaken.

8.3.4 There are no designated ecological sites here or adjacent to the application site.

8.4 Impact Upon Residential Amenity

8.4.1 The mobile homes at the site would have no significant effects on the privacy of existing dwellings within Eastwood Road. The nearest dwellings are Yew Tree Farm, approximately 96 metres from the site and Hillview, approximately 112 metres from the site. These distances ensure that there would be no adverse impact in terms of loss of privacy, light or an overwhelming impact.

8.4.2 With regard to noise disturbance from the site, there would not be a reasonable expectation for a significant level of noise generation from the site. A residential use is not a significant noise generator and any complaints regarding excessive noise would be assessed under the Environmental Health Legislation.

8.4.3 In terms of light pollution, it is not considered that appropriate lighting would cause unacceptable harm to the neighbouring properties to warrant refusal. However a condition restricting the use of flood lighting could be attached to any grant of permission to control this.

8.5 Highway Safety Considerations

8.5.1 The site is served by an existing access onto Eastwood Road. Whilst no comments have been received on the current application, the KCC Highways Engineer has considered the proposals under the previous application, MA/07/1516, and raised no objections in terms of highway safety implications on Eastwood Road.

8.5.2 There have been no significant changes to the circumstances of the site, the development or the surrounding road network to justify reaching a different conclusion on the matter of highway safety.

8.6 Other Considerations

8.6.1 In terms of sustainability, the site is located relatively close to Kingswood, Harrietsham, Headcorn and Lenham and is approximately 0.5 miles to the village boundary of Grafty Green and 1.2 miles to the village of Ulcombe. The closest Post Office is 0.7 miles away in Grafty Green, the closest dentist is 3 miles away in Headcorn and the closest GP is 2.2 miles away in Kingswood.

8.6.2 Whilst the site is not within a village or immediately on the edge of a village the above distances indicate that it is not an isolated site and would provide a settled base without the need for long-distance travelling as outlined at paragraph 64 of Circular 01/2006.

8.6.3 I do not consider that the site is in such an isolated position that would warrant refusal on sustainability grounds.

7. RECOMMENDATION

GRANT PLANNING PERMISSION subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission;

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. This permission does not authorise the use of the land as a caravan site by any persons other than gypsies, as defined in paragraph 15 of ODPM Circular 01/2006.

Reason: The site is in an area where the stationing of caravans/mobile homes is not normally permitted and an exception has been made to provide accommodation solely for gypsies who satisfy these requirements pursuant to Circular 01/2006: Planning for Gypsy and Traveller Caravan Sites.

3. No more than three mobile homes, as defined as defined in Section 24 (8) of the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than two shall be static caravans or mobile homes) shall be stationed on the land at any one time;

Reason: In the interests of visual amenity in accordance with policies ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan 2000 and policy C4 of the South East Plan (2009).

4. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping including a double staggered hawthorn hedgerow along the southern boundary of the site, using indigenous species which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development and a programme for the approved scheme's implementation and long term management. The scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment and Landscape Guidelines;

Reason: No such details have been submitted in accordance with policies ENV6, ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan (2000), policy C4 of the South East Plan (2009) and guidance contained in PPS9.

5. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building(s) or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation;

Reason: To ensure a satisfactory setting and external appearance to the development in accordance with policies ENV6, ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan (2000) and guidance contained in PPS9.

6. Prior to the commencement of development full details of foul and surface drainage shall be submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details;

Reason: To ensure adequate drainage is proposed and to prevent pollution in accordance with policies NRM1 and NRM4 of the South East Plan (2009).

7. No external lighting shall be erected on the site at any time unless previously agreed in writing by the Local Planning Authority;

Reason: To safeguard the character and appearance of the area and to prevent light pollution in accordance with policies ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan (2000) and policy C4 of the South East Plan (2009).

8. Prior to the commencement of development full details of the proposed surfacing for the areas of hardstanding shall be submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details;

Reason: To ensure a satisfactory appearance to the development in accordance with policies ENV6, ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan (2000) and policy C4 of the South East Plan (2009).

9. If the use hereby permitted ceases all caravans, structure, equipment and materials brought onto the land for the purposes including the hardstanding and utility room of such use shall be removed;

Reason: To safeguard the character and appearance of the countryside in accordance with policies ENV28 of the Maidstone Borough-Wide Local Plan (2000) and C4 of the South East Plan (2009).

The proposed development, subject to the conditions stated, is considered to comply with the policies of the Development Plan (Maidstone Borough-Wide Local Plan 2000 and South East Plan 2009) and there are no overriding material considerations to indicate a refusal of planning consent.

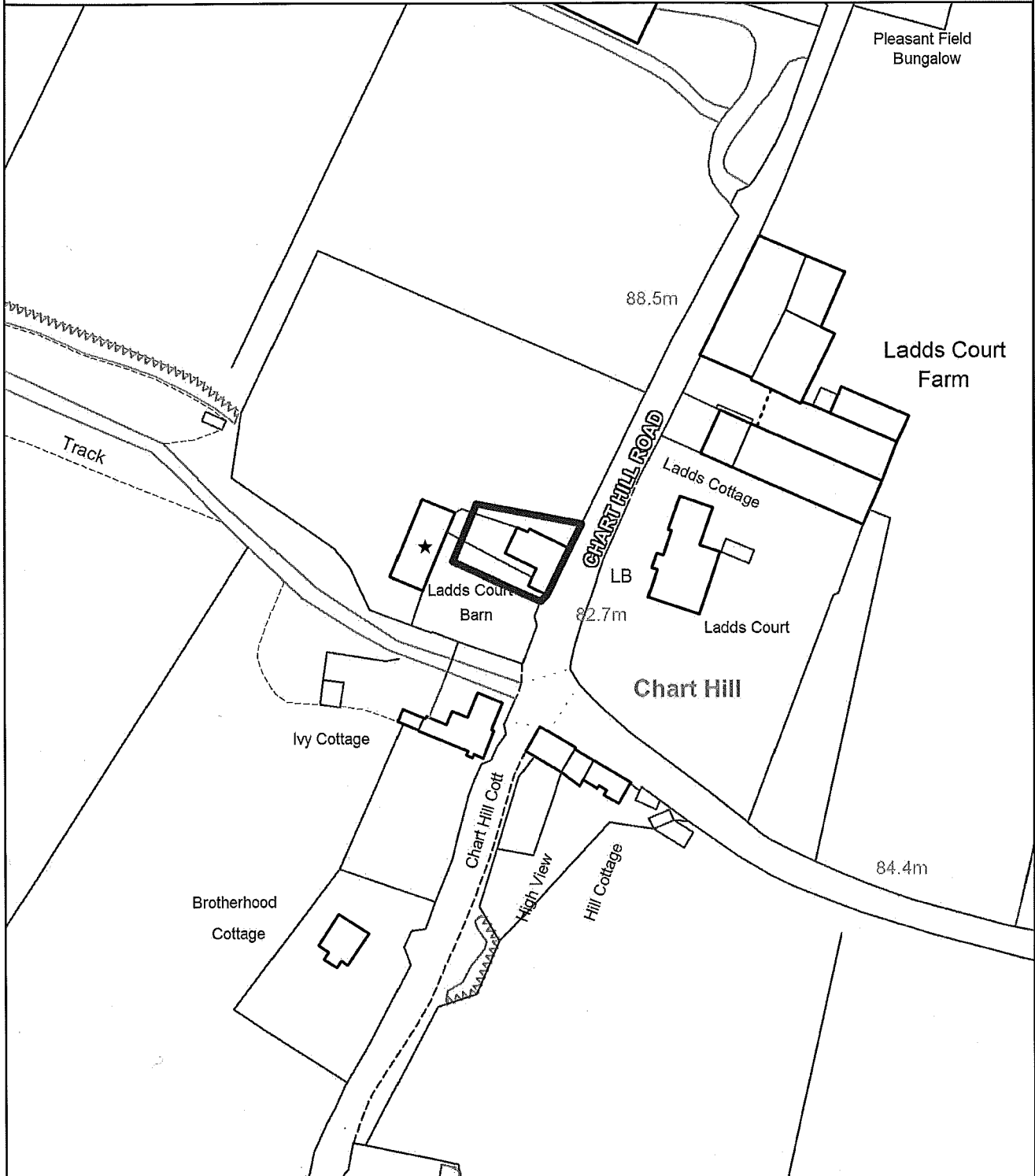
Agenda Item 21

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/09/1943

GRID REF: TQ7949

LADDS COURT BARN,
CHART HILL ROAD, CHART SUTTON.



This copy has been produced specifically for Planning and Building Control Purposes only. No further copies may be made. Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationary Office ©Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. The Maidstone Borough Council No. 1000019636, 2009. Scale 1:1250



Alison Broom
Director of Prosperity and Regeneration

APPLICATION: MA/09/1943 Date: 21 October 2009 Received: 16 November 2009

APPLICANT: Mr K. Hollingsworth

LOCATION: LADDS COURT BARN, CHART HILL ROAD, CHART SUTTON, MAIDSTONE, KENT, ME17 3EZ

PARISH: Chart Sutton

PROPOSAL: Application to reconstruct an existing timber framed barn on the original footprint to be used as a habitable dwelling as shown on drawing numbers 1345.201/A, 1345.202/A, 1345.203 & 1345.204 received on 27/10/09 and the site location plan received on 16/11/09, and described in the planning statement, photographic record, structural appraisal, structural statement and Design and Access Statement all received on 27/10/09.

AGENDA DATE: 25th February 2010

CASE OFFICER: Angela Welsford

The recommendation for this application is being reported to Committee for decision because:

- it is a departure from the Development Plan

1.0 POLICIES

- 1.1 Maidstone Borough-Wide Local Plan 2000: ENV6, ENV28, ENV34.
- 1.2 The South East Plan RSS 2009: CC1, CC2, CC3, CC4, NRM1, NRM2, NRM5, C4, BE6, H5.
- 1.3 Government Policy: PPS1, PPS7, PPS9, PPG15 & PPS23.

2.0 HISTORY

- 2.1 09/0915 Retrospective application for the creation of access – WITHDRAWN
- 2.2 08/0992 Conversion of agricultural barn to single residential dwelling (amendment to MA/02/0883) – AWAITING DECISION
- 2.3 05/1120 Amendments to planning permission MA/02/0883 comprising alterations to garage building – APPROVED

- 2.4 02/1666 Change of use of land to increase existing residential curtilage – REFUSED
- 2.5 02/0883 Conversion of two barns to two residential dwellings and erection of detached garage – APPROVED
- 2.6 01/1263 Conversion of two barns to two residential dwellings and erection of detached garage building (resubmission of MA/00/0986) – APPROVED
- 2.7 00/0986 Conversion of two barns to two residential dwellings, erection of detached double garage and conversion of storage area to car port – REFUSED
- 2.8 88/2166 Conversion of existing barns – WITHDRAWN

3.0 CONSULTATIONS

3.1 CHART SUTTON PARISH COUNCIL – Wishes to see the application approved.

3.2 MBC CONSERVATION OFFICER

- 3.2.1 "The barn was situated directly opposite to Ladds Court, an important 16th Century timber-framed building, which from its continuously-jettied design, featuring copious use of close-studding appears to have been a building of high status. It is fronted to the road by a ragstone retaining wall which is echoed on the other side of the road by a similar wall from which the barn subject to this application rose directly.
- 3.2.2 This barn and the larger one set at right angles to it (and already converted to residential use) form a complete farmyard group, probably dating from the mid 18th Century. The use of large, squared ragstone blocks for the lower parts of the barn's structure suggests that it was a building built with some pride and not erected as cheaply as possible – perhaps not surprising when it would have been prominent in views from the front of Ladds Court. The farmyard, although separated from the house by the road, thus removing the agricultural operations from the immediate domestic environment, was, however, directly under visual supervision from the farmhouse. A large, possibly later (late 18th/early 19th Century?) brick farm building situated to the north of Ladds Court and on the same side of the road probably indicates an expansion of the farm group.
- 3.2.3 The barn subject to this application represents a rare example in Kent of a bank barn, a building type more often associated with highland regions of Britain (e.g. Cumbria, Yorkshire and Cornwall). This is a barn built into the slope of the land which can be entered at both ground floor and first floor level. In this case, the barn appears to have been used as a threshing barn at first floor level, entered from the uphill side to the north; the use of the ground floor is unclear, but its single personal door suggests that it may have been something like a tool store.

- 3.2.4 The re-building of the barn is essential to the character of the farmyard group which is highly important to the setting of the listed farmhouse opposite and to the character of the attractive larger group of listed and unlisted historic buildings around the road junction. Failure to rebuild would seriously weaken the visual and historic character of this setting. The rarity of the building type is another reason for seeking its rebuild.
- 3.2.5 It is, therefore, recommended that, on heritage grounds, permission be granted subject to the following conditions samples of materials, joinery details, removal of all permitted development rights, landscaping scheme, strict accordance with submitted plans and re-use of existing salvaged materials.”
- 3.3 MBC ENVIRONMENTAL HEALTH MANAGER** – No objections. Recommends informatives. Land contamination was dealt with via MA/02/0883 and therefore does not need to be addressed now.
- 3.4 MBC BUILDING CONTROL** – No response received to date.
- 3.5 ENVIRONMENT AGENCY** – No objection. Previous agricultural use may have left contamination which should be assessed and investigated as appropriate. The site is on a principal aquifer, which generates particular requirements regarding surface water drainage.
- 3.6 AGRICULTURAL ADVISOR** – Consent has previously been granted for conversion of the barn to residential use, so no agricultural considerations arise.
- 3.7 NATURAL ENGLAND** – There is little point in updating bat surveys now that the barn has been dismantled. However, I would recommend that the original surveys are reviewed and if they indicated the presence of bats it would be appropriate for provision of bat roosts to be conditioned as part of any permission. Additionally thought should be given to any external lighting proposals to ensure that light spillage is minimised. Even if bats were not present it would be good practice to encourage bats.
- 3.8 KENT WILDLIFE TRUST** – No response received to date.
- 3.9 KCC HIGHWAYS ENGINEER** – No response received to date. (OFFICER COMMENT – It is considered that no response is necessary in this respect as there are no changes to previously-approved access/parking arrangements, see paragraph 5.7.1).

4.0 CONSIDERATIONS

4.1 The Site

- 4.1.1 The application site is located in open countryside in the parish of Chart Sutton. The majority of it falls within The Greensand Ridge Special Landscape Area.
- 4.1.2 The site is a roughly rectangular piece of land situated on the western side of the steep slope of Chart Hill Road. It currently contains a partially reconstructed ragstone/timber-framed barn ("East Barn"), which stands immediately adjacent to, and at right angles to, the road.
- 4.1.3 This barn, in its former state, was of considerable age, with some elements apparently dating back to the 16th century. It was a two storey structure, rectangular in plan, with a small single storey wing projecting on the southern side, and was partially built into the slope of Chart Hill such that, on the northern side, the first floor was at ground level. In terms of materials, the ground floor was predominantly constructed from Kentish ragstone with some historic brickwork infills/repairs, whilst the first floor was timber-framed and clad in dark stained weatherboarding, and the roof Kent peg tiled.
- 4.1.4 To the west of the application site, is a converted barn ("West Barn") which is the applicants dwelling. This stands in a courtyard arrangement with the application building and a recently-constructed, four-bay garage block (to the south of the shared access). Directly opposite, on the eastern side of Chart Hill Road, stands the Grade II listed "Ladds Court".

4.2 Relevant Planning History

- 4.2.1 Planning Permission was first granted for the conversion of the two barns ("East Barn" – the application building – and "West Barn" – the applicant's residence) to two separate dwellings and the erection of a detached garage block in September 2001 under reference MA/01/1263.
- 4.2.2 An amended scheme (in relation to "West Barn" and the garage block) was subsequently granted permission under reference MA/02/0883 in June 2002. That planning permission was then implemented through the conversion of "West Barn". "East Barn" remained unconverted but with a live permission to do so.
- 4.2.3 An amendment in relation to the garage block was granted in July 2005 (MA/05/1120). That has now been constructed.
- 4.2.4 In June 2008 an application was submitted for amendments to implemented planning permission, MA/02/0883 in respect of the conversion of "East Barn". The application (reference MA/08/0992) was found to be invalid by virtue of the time lapse since June 2002 and the subsequent publication of PPS9, an up-to-date bat survey was required before the application could be determined, but could not be carried out straight away because of the time of year.

- 4.2.5 The supporting statement submitted with the current application explains that, following a spell of bad weather in February/March 2009, signs of structural movement in the building were noted by the applicant who commissioned a structural appraisal (visual inspection) on the basis of which the decision was taken to proceed with the conversion as approved under planning permission MA/02/0883 in order to allow maintenance and prevent further deterioration. Two large additional cracks were subsequently discovered and a specialist building contractor was instructed to make the building safe, which initially involved removal of the roofing covering to reduce the load on the front elevation. As works progressed, further cracks, rotted timbers and lack of foundations were discovered until it was decided to dismantle the building on health and safety grounds and store it on site ready for reconstruction.
- 4.2.6 It is understood that the applicant then proceeded with the reconstruction in the belief that this would be covered by planning permission MA/02/0883, and by July 2009 the foundations and part of the ragstone ground floor had been rebuilt. At that point, works ceased when he was advised by Planning Enforcement that the development then being carried out was actually, in planning terms, the erection of a building to be used as a dwelling rather than the conversion of an existing barn to a dwelling as approved under reference MA/02/0883. Consequently, a fresh planning application was required.

4.3 The Proposal

- 4.3.1 The current application therefore seeks planning permission to reconstruct the barn on its original footprint, but for use as a residential dwelling instead of a barn. The accommodation provided would be an entrance hall and three bedrooms/bathrooms on the ground floor, and an open-plan lounge/diner/kitchen on the first floor. (MA/02/0883 had permitted similar accommodation, but with one more bedroom). The fenestration pattern now proposed would be different to that approved under the conversion scheme, but overall would not provide a significantly greater number of openings. It is proposed to re-use the ragstone, roof tiles and all sound timbers, all of which were labelled when the original building was dismantled and are currently stored in the adjoining field.

5.0 PLANNING CONSIDERATIONS

5.1 Principle of the Development

- 5.1.1 As the building that was granted consent for conversion under reference MA/02/0883 was demolished, the part of that planning permission that relates to "East Barn" can now no longer be implemented.
- 5.1.2 In effect, therefore, the proposal now under consideration by Members is for the erection of a new dwelling in the countryside. Local Plan Policy ENV45 no longer

applies as the proposal is not a conversion. The dwelling is not intended to be for an agricultural or forestry worker. It would therefore be contrary to both Central Government and Development Plan Policy, which seek to limit new development in rural areas in the interest of countryside conservation.

5.1.3 The main issue, therefore, for consideration by Members, is whether, in this particular instance, there is an overriding justification to permit the proposal as a departure from the Development Plan.

5.2 Setting of Listed Buildings

5.2.1 Although not a listed building, the original barn (now demolished) was considered worthy of preservation and was thus granted planning permission for conversion to a dwelling in 2002. Part of that worth was its group value together with "West Barn" and the important contribution that the buildings made to the setting of the listed farmhouse, "Ladds Court". If "East Barn" is not rebuilt, the character of the farmyard group will be eroded, and the setting of "Ladds Court" harmed.

5.2.2 As it stands, this argument could be repeated all too often and lead to the reconstruction of many dilapidated/derelict rural buildings for residential purposes, which would be detrimental to the character and appearance of the countryside.

5.2.3 In this particular instance, however, a lawful conversion was underway and the unfortunate set of circumstances that led to the barn being dismantled have already been summarised (in the previous section describing the planning history). These are set out in greater detail in the application documents and supported by the structural appraisal carried out in April 2009. Furthermore, the building has been carefully dismantled and the individual pieces labelled and stored, as evidenced by the submitted survey drawing of the timber-frame members and the photographic survey and seen during my site visit.

5.2.4 Moreover, the Conservation Officer has stated that the re-building of the barn is essential to the character of the farmyard group which is highly important to the setting of the listed farmhouse opposite and to the character of the attractive larger group of listed and unlisted historic buildings around the road junction. The historic development of the farmyard group, the functional ties of the building with "Ladds Court", and its rarity of form, being a bank barn, are set out in greater detail in the Conservation Officer's comments in the Consultations section of this report. Consequently, given that a substantial amount of the original material remains and is apparently re-useable, and that the design of the building as a dwelling would nevertheless be sympathetic to the simple rural character of the original barn and broadly similar to that of the previously approved conversion scheme, I consider that in view of all of the foregoing points, in this particular instance, the reconstruction of the building for use as a

dwelling is of overriding importance in order to preserve the setting of the Grade II listed "Ladds Court".

5.3 Impact on the Countryside

5.3.1 Furthermore, I do not consider that the proposal would cause any harm to the scenic quality or distinctive character of The Greensand Ridge Special Landscape Area, provided that the original materials are reused, given the similarities to the previously approved conversion scheme that would have been carried out but for an unfortunate set of circumstances. Indeed, in my view, the former barn was an attractive visual incident at the side of Chart Hill Road, which, together with "West Barn" and "Ladds Court" farmhouse formed a group that contribute to the rural character of the area.

5.4 Amenity

5.4.1 "West Barn" (currently the applicant's dwelling) is located approximately 15.5m from the proposed reconstructed "East Barn" and stands at right angles to it, but does not have any windows in a position to be significantly affected by the two proposed lounge windows (first floor level, west elevation). Due to the degree of separation, there would not be any adverse impact in terms of loss of light or overbearing impact.

5.4.2 No other dwellings are in a position to be adversely affected in terms of daylight, sunlight, privacy or overbearing impact – "Ivy Cottage", to the south, would be shielded by the existing garage block, and "Ladds Court" stands on elevated ground on the opposite side of Chart Hill Road.

5.5 Ecology

5.5.1 As the building has now been dismantled, Natural England has advised that there is no requirement to update the bat survey. However, provision of bat boxes should be conditioned to enhance habitat and roosting opportunities in the area, in accordance with the aims of PPS7. External lighting should also be controlled to ensure that light spillage is minimised.

5.6 Contamination

5.6.1 Although previous agricultural use of the site may have left contamination, this matter was dealt with by way of condition 12 of MA/02/0883, which has been discharged.

5.7 Highways

5.7.1 There is no change to the shared access onto the classified Chart Hill Road, and adequate parking provision exists in the previously approved garage block.

5.8 Drainage

5.8.1 Foul drainage would be to the mains, which is acceptable.

5.8.2 The site is located on a principal aquifer, and subsequently, although the Environment Agency does not object to the use of soakaways in general at this site, it has set out particular requirements as to depth etc. I therefore consider that a condition requiring submission of surface water drainage details would be appropriate.

5.9 Code for Sustainable Homes

5.9.1 Ordinarily Policies CC4 and H5 of The South East Plan RSS 2009 require sustainable construction techniques to be employed in all schemes for new dwellings, and the Council requires a minimum of Level 3 of the Code for Sustainable Homes to be met. However, in this particular instance it is not certain that this could be achieved due to the requirements to re-use historic materials and employ traditional construction techniques which are paramount to the justification for permitting the reconstruction of the building. Consequently, in this particular instance I consider it acceptable not to attach a Code for Sustainable Homes condition.

5.10 Conclusion

5.10.1 Although the erection of new dwellings in the countryside is generally unacceptable in principle, in this particular instance, in view of the specific planning history and circumstances that led to the barn being dismantled, the substantial amount of original material that has been labelled and stored for re-use, and the desirability of preserving the setting of the listed building, "Ladds Court", I consider that an exception can be made as, in my view, these considerations, in combination, outweigh any harm that may arise.

5.10.2 As the development is a departure from the Development Plan, the application has been advertised accordingly. The resultant time-limit on the statutory site notice and newspaper advertisement has not yet expired. Consequently, I recommend that Members give delegated powers to grant planning permission subject to conditions as set out below.

6.0 RECOMMENDATION

SUBJECT TO any new representations received as a result of outstanding statutory advertisements I BE DELEGATED POWER TO GRANT PLANNING PERMISSION subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission;

Reason: In accordance with the provisions of Section 91 of the Town and Country

Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development shall be constructed re-using salvaged materials from the demolished barn in so far as is practicable and no further development shall take place until written details and samples of any new materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the Local Planning Authority and the development shall be constructed using salvaged materials and the new materials so approved;

Reason: To ensure that the development is the reconstruction of the former historic barn and not simply the erection of a new building in the countryside, and to preserve the setting of the Grade II listed Ladds Court in accordance with Policies ENV28 & ENV34 of the Maidstone Borough Wide Local Plan 2000, Policies C4 & BE6 of The South East Plan RSS 2009 and the Central Government advice contained in PPG15 - Planning & the Historic Environment.

3. No further development shall take place until full details of the following matters have been submitted to and approved in writing by the Local Planning Authority:-
 - a) New external joinery in the form of large scale drawings.The development shall be carried out in accordance with the approved details;

Reason: To ensure a satisfactory appearance to the development and preserve the setting of the Grade II listed Ladds Court in accordance with Policies ENV28 & ENV34 of the Maidstone Borough Wide Local Plan 2000, Policies C4 & BE6 of The South East Plan RSS 2009 and the Central Government advice contained in PPG15 - Planning & the Historic Environment.

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No. 2) (England) Order 2008 (or any order revoking and re-enacting that Order with or without modification) no development within Schedule 2, Part 1, Classes A to H inclusive and Schedule 2, Part 2, Classes A or C to that Order shall be carried out without the permission of the Local Planning Authority;

Reason: To safeguard the character and appearance of the building and surrounding area and preserve the setting of the Grade II listed Ladds Court in accordance with Policies ENV28 & ENV34 of the Maidstone Borough Wide Local Plan 2000, Policies C4 & BE6 of The South East Plan RSS 2009 and the Central Government advice contained in PPG15 - Planning & the Historic Environment.

5. No further development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping, using

indigenous species which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development and a programme for the approved scheme's implementation and long term management. The scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment and Landscape Guidelines;

Reason: No such details have been submitted and in order to provide a satisfactory appearance to the development in accordance with Policy ENV6 of the Maidstone Borough-Wide Local Plan 2000.

6. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building(s) or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation;

Reason: To ensure a satisfactory setting and external appearance to the development in accordance with Policy ENV6 of the Maidstone Borough-Wide Local Plan 2000.

7. No further development shall take place until written details of the method of surface water drainage have been submitted to and approved in writing by the local planning authority and these works shall be completed in accordance with the approved details before the first occupation of the building;

Reason: To prevent pollution of the water environment in accordance with Policies NRM1 & NRM2 of The South East Plan RSS 2009.

8. No further development shall take place until full details of any proposed external lighting have been submitted to and approved in writing by the Local Planning Authority, and any such lighting shall only be installed in accordance with the approved details or the Local Planning Authority's written consent;

Reason: In the interests of the visual amenity of the Greensand Ridge Special Landscape Area and to ensure an acceptable impact on bats, some of which species are light-averse, in accordance with Policies BE6, NRM5 & C4 of The South East Plan RSS 2009 and Policies ENV28, ENV34 & ENV49 of the Maidstone Borough-Wide Local Plan 2000.

9. All services to the premises shall be underground, and no meter boxes shall be located externally;

Reason: To safeguard the character and appearance of the building and surrounding area and preserve the setting of the Grade II listed Ladds Court in accordance with Policies ENV28 & ENV34 of the Maidstone Borough Wide Local Plan 2000, Policies C4 & BE6 of The South East Plan RSS 2009 and the Central Government advice contained in PPG15 - Planning & the Historic Environment.

10. There shall be no deviation from the approved plans unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure a high quality of development and to preserve the setting of the Grade II listed Ladds Court in accordance with Policies ENV28 & ENV34 of the Maidstone Borough Wide Local Plan 2000, Policies C4 & BE6 of The South East Plan RSS 2009 and the Central Government advice contained in PPG15 - Planning & the Historic Environment.

11. No further development shall take place until details of provision for bats to roost within the development have been submitted to and approved in writing and the approved details shall be implemented prior to the first occupation of the building and thereafter maintained;

Reason: To provide additional wildlife habitat within the development area in accordance with Policy NRM5 of The South East Plan RSS 2009 and the Central Government policy contained in PPS9.

Informatives set out below

Attention is drawn to Sections 60 & 61 of the COPA 1974 and to the Associated British Standard COP BS 5228:1997 for noise control on construction sites. Statutory requirements are laid down for control of noise during works of construction and demolition and you are advised to contact the Environmental Health Manager regarding noise control requirements.

Clearance and burning of existing woodland or rubbish must be carried without nuisance from smoke etc to nearby residential properties. Advice on minimising any potential nuisance is available from the Environmental Health Manager.

Plant and machinery used for demolition and construction shall only be operated within the application site between 0800 hours and 1900 hours on Mondays to Fridays and between 0800 hours and 1300 hours on Saturdays and at no time on Sunday and Bank Holidays.

No vehicles may arrive, depart, be loaded or unloaded within the general site outside the hours of 0800 hours and 1900 Mondays to Fridays and 0800 to 1300 hours on Saturdays and at no time on Sundays and Bank Holidays.

Reasonable and practicable steps should be used during any demolition or removal of existing structure and fixtures, to dampen down, using suitable water or liquid spray system, the general site area, to prevent dust and dirt being blown about so as to cause a nuisance to occupiers of nearby premises. Where practicable, cover all loose material on the site during the demolition process so as to prevent dust and dirt being blown about so as to cause a nuisance to occupiers of nearby premises.

The importance of notifying local residents in advance of any unavoidably noisy operations, particularly when these are to take place outside the normal working hours is advisable. Where possible, the developer shall provide the Council and residents with a name of a person and maintain dedicated telephone number to deal with any noise complaints or queries about the work, for example scaffolding alarm misfiring late in the night/early hours of the morning, any over-run of any kind.

With regard to condition 7, you are advised that the Environment Agency does not object to the use of soakaways at this site, providing they are as shallow as possible, and no deeper than three metres below ground level. Only clean, uncontaminated surface water drainage will be permitted to discharge to soakaways. Roof water shall discharge direct to soakaway via a sealed down pipes (capable of preventing accidental/unauthorised discharge of contaminated liquid into the soakaway) without passing through either trapped gullies or interceptors. Open gullies should not be used. There must be no discharge into land impacted by contamination or land previously identified as being contaminated. There must be no discharge to made ground. If any of these aspects can not be achieved, then alternative methods for the disposal of surface water drainage must be provided.

The proposed development, subject to the conditions stated, is considered to comply with the policies of the Development Plan (Maidstone Borough-Wide Local Plan 2000 and South East Plan 2009) and there are no overriding material considerations to indicate a refusal of planning consent.

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/09/2251

GRID REF: TQ7654

LAND ADJACENT TO 43A,
PARK WAY, MAIDSTONE.



This copy has been produced specifically for Planning and Building Control Purposes only. No further copies may be made. Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationary Office ©Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. The Maidstone Borough Council No. 1000019636, 2009. Scale 1:1250



Alison Broom
Director of Prosperity and Regeneration

APPLICATION: MA/09/2251 Date: 7 December 2009 Received: 9 December 2009
APPLICANT: Mr B. Hedley
LOCATION: LAND ADJACENT TO 43A, PARK WAY, MAIDSTONE, KENT
PARISH: Maidstone
PROPOSAL: Demolition of existing single storey side extension and detached garage and erection of a new chalet style dwelling as shown on drawing numbers 09.536/01 B and 09.536/02 B received on 9/12/09.
AGENDA DATE: 25th February 2010
CASE OFFICER: Peter Hockney

The recommendation for this application is being reported to Committee for decision because:

- Councillor Yates has requested it be reported for the reason set out in the report

1. POLICIES

Maidstone Borough-Wide Local Plan 2000: ENV6, T13
South East Plan 2009: CC4, H4, H5, M1, BE1, T4
Government Policy: PPS1, PPS3, PPG13

1. RELEVANT HISTORY

MA/08/1562 – Outline planning permission for the erection of 1no. three bedroom dwelling with access to be considered at this stage and all other matters reserved for future consideration (re-submission of MA/08/0793) – REFUSED.

MA/08/0793 – Outline planning permission for the erection of one, three bedroom dwelling with external appearance, siting and design to be considered at this stage and all other matters reserved for future consideration – WITHDRAWN.

MA/07/2561 – Demolition of existing single storey side extension and detached garage and erection of new three bedroom dwelling – REFUSED.

MA/07/1852 – Demolition of existing single storey side extension and detached garage and erection of new three bedroom dwelling and creation of hardstanding – REFUSED.

MA/07/1391 – Demolition of existing rear extensions and erection of new rear extension, replacement of existing rear flat roof with pitched roof. Sub division of existing dwelling to form two, three bedroom dwellings and creation of new vehicular access – APPROVED.

MA/89/0515 – Variation of condition of MA/87/2075 – APPROVED.

MA/87/2075 – Extension to existing house – APPROVED.

2. CONSULTATIONS

MBC Environmental Health Manager raises no objections to the application and recommends informatives to be added to any approval.

3. REPRESENTATIONS

4.1 Cllr Yates has called the application to Planning Committee if officers are minded to approve the application stating:-

“That considering the size and physical constraints of the site that construction of the Chalet would appear incongruous and seriously erode the rhythm of the street scene.”

4.2 One letter of objection has been received on the following grounds:-

- The development is out of character in the area.
- Loss of privacy.

4. CONSIDERATIONS

5.1 Background and History

5.1.1 The site originally formed part of a corner plot at the junction of Park Way and Holtye Crescent, which contained a pair of semi detached dwellings (43 Park Way and 119 Holtye Crescent). Under planning application MA/07/1391 permission was given for extensions and alterations to 43 Park Way and the subdivision of the property to two dwellings. This application has been implemented and the result is a terrace of three properties on this corner plot.

5.1.2 More recently, applications have been submitted to erect an additional dwelling adjacent to number 43A Park Way. These have been made under references MA/07/1852, MA/07/2561, MA/08/0793 and MA/08/1562. All of the applications were refused apart from MA/08/0793 (which was withdrawn). The reasons for refusal were all similar and related to the impact that the development would have on the street scene with regard to its erosion of the gap between the properties and the impact on the rhythm of the street.

5.2 Site Location and Description

5.2.1 The application site relates to an existing two storey dwelling and garden area on a corner plot at the junction of Park Way and Holtye Crescent. The site is adjacent to 43A Park Way.

5.2.3 The site is located within the defined settlement boundary of Maidstone in a residential area. The land is level and there is on street parking without restrictions. The dwellings are a mix of detached and semi-detached properties of varying designs though all 2-storey. There are no trees of any note on the site.

5.3 Proposed Development

5.3.1 The application is a full application for the erection of a new two bedroom dwelling that would be attached to 43A. The property has been designed to appear as a single storey/one and a half storey addition to 43A and maintains a low eaves height to the front, 2.6 metres. Two velux rooflights to the front would serve the first floor accommodation. The eaves height would rise to 3.8 metres on the side and rear. The design of the dwelling would incorporate an element of flat roof in order to keep the overall height of the property to a maximum of 4.9 metres. This height would be slightly lower than the existing eaves height of the dwelling at 43A.

5.3.2 The development would utilise an existing access onto Park Way and would provide off street parking spaces for two cars. The parking area would not take up the entire frontage and there would be sufficient space for landscaping and the creation of a front garden area.

5.4 Principle of the Development

5.4.1 The site is within the urban area of Maidstone and is previously developed land. As such, residential development is acceptable and would conform to both national and local policies.

5.4.2 This is evidenced by the previous applications that did not include a reason for refusal stating that the principle of residential development was unacceptable.

5.5 Impact on Street Scene

5.5.1 This is the key consideration in the determining of this application. Planning permission has been refused a number of times in the recent past on the ground that the development would have a harmful impact on the character and appearance of the street scene.

5.5.2 The previous developments would all have been two-storey properties that would have eroded the gap at first floor level between 43A and 45 Park Way.

This erosion of this gap would harm the rhythm of the street scene and was therefore deemed to be unacceptable.

- 5.5.3 Changes have been made to the development with a view to overcoming the previous reasons for refusal. The changes result in a low-rise dwelling that would be no higher than the eaves height of 43A. This is a significant reduction in height from the previous refused application of MA/07/2561 where the dwelling would have been 4.9 metres to the eaves and 8.6 metres to the ridge. This would have matched the height of the attached dwellings and the other dwellings in the area.
- 5.5.4 The proposed changes have resulted in a development that would maintain the gap above ground floor level between 43A and 45 Park Way. The maintenance of this gap would ensure that the rhythm of the street scene is preserved and that no significant harm would occur to the character of the street.
- 5.5.5 The proposed extension to form the dwelling would be set back from the corner of 43A and behind the position of the existing side extension. Therefore, whilst further forward than the front wall of 45 Park Way it would not be dominant in the street scene and would not significantly impact on the existing building line of Park Way.
- 5.5.6 The design of the proposal would appear as a one and a half storey extension to the existing dwelling of 43A and as such would not be out of character with the general area.
- 5.5.7 The use of the existing access would ensure there would be no additional crossovers onto Park Way and the maintenance of a front garden area would ensure that the site would be assimilated into the surrounding area.
- 5.5.8 On balance, the changes made to the scheme have resulted in a development that would maintain the gap at first floor level between 43A and 45 Park Way, maintain the rhythm of the street scene and not lead to an incongruous feature in the street. Therefore it has overcome the previous reasons for refusal on earlier applications.

5.6 Impact on Residential Amenity

- 5.6.1 The properties either side of the development would be 43A Park Way, which the new dwelling would be attached to and 45. These properties would be the most likely to be affected by the proposal.
- 5.6.2 The proposed development would not project beyond the rear wall of either 43A or 45. There are no windows in the flank elevation of number 45. Therefore

there would be no loss of light or an overwhelming impact on the occupiers of neighbouring dwellings.

5.6.3 The proposed dwelling would be orientated on the same axis as the neighbour at number 45 and therefore the windows would face towards the rear portion of the gardens at numbers 45 and 43A Park Way. There would be no overlooking to habitable rooms of neighbouring occupiers or private rear garden areas and therefore no significant loss of privacy.

5.6.4 The previous applications for a two storey dwelling were not refused on the grounds of impact on residential amenity and this proposal would have less impact.

4.7. Other Considerations

5.7.1 There would be no additional access points proposed onto Park Way and as a result there would be no hazard to highway safety. Two car parking spaces are proposed and this level is acceptable for this urban location with access to the facilities of Maidstone town centre.

5.7.2 The proposed layout of the rear garden would ensure that the proposed dwelling and those for 43A and 43 are all adequate for providing private amenity space for family dwellings. This would conform to the requirements of Government guidance contained in PPS3.

5.7.3 The application includes details of the dwelling that would achieve level 3 of the Code for Sustainable Homes and this is considered appropriate for this scale of development.

5. RECOMMENDATION

GRANT PLANNING PERMISSION subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission;

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development shall not commence until, written details and samples of the materials to be used in the construction of the external surfaces of the building(s)

hereby permitted have been submitted to and approved in writing by the Local Planning Authority and the development shall be constructed using the approved materials;

Reason: To ensure a satisfactory appearance to the development in accordance with policy BE1 of the South East Plan (2009).

3. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping comprising a low front boundary wall with hedgerow behind, using indigenous species which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development and a programme for the approved scheme's implementation and long term management. The scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment and Landscape Guidelines;

Reason: No such details have been submitted and in accordance with policies ENV6 of the Maidstone Borough-Wide Local Plan (2000) and BE1 of the South East Plan (2009).

4. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building(s) or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation;

Reason: To ensure a satisfactory setting and external appearance to the development in accordance with policies ENV6 of the MAidstone Broough-Wide Local Plan (2000) and BE1 of the South East Plan (2009)

5. The dwelling shall achieve Level 3 of the Code for Sustainable Homes. The dwelling shall not be occupied until a final Code Certificate has been issued for it certifying that Code Level 3 has been achieved;

Reason: To ensure a sustainable and energy efficient form of development in accordance with Policies CC4 and M1of the South East Plan (2009), Kent Design Guide 2000 and PPS1.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended by the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2008 and the Town and Country Planning (General Permitted Development) (Amendment) (No.2)

(England) Order 2008 (or any order revoking and re-enacting that Order with or without modification), no development within Schedule 2, Part 1, Classes A and B shall be carried out without the permission of the Local Planning Authority;

Reason: To safeguard the character and appearance of the development and the enjoyment of their properties by existing and prospective occupiers in accordance with policy BE1 of the South East Plan (2009).

Informatives set out below

Attention is drawn to Sections 60 & 61 of the COPA 1974 and to the Associated British Standard COP BS 5228:1997 for noise control on construction sites. Statutory requirements are laid down for control of noise during works of construction and demolition and you are advised to contact the Environmental Health Manager regarding noise control requirements.

Clearance and burning of existing woodland or rubbish must be carried out without nuisance from smoke etc to nearby residential properties. Advice on minimising any potential nuisance is available from the Environmental Health Manager.

Plant and machinery used for demolition and construction shall only be operated within the application site between 0800 hours and 1900 hours on Mondays to Fridays and between 0800 hours and 1300 hours on Saturdays and at no time on Sunday and Bank Holidays.

Vehicles may only arrive, depart, be loaded or unloaded within the general site between the hours of 0800 hours and 1900 Mondays to Fridays and 0800 to 1300 hours on Saturdays and at no time on Sundays and Bank Holidays.

Adequate and suitable provision in the form of water sprays should be used to reduce dust from the site.

Adequate and suitable measures should be carried out for the minimisation of asbestos fibres during demolition, so as to prevent airborne fibres from affecting workers carrying out the work, and nearby properties. Only contractors licensed by the Health and Safety Executive should be employed.

Any redundant materials removed from the site should be transported by a registered waste carrier and disposed of at an appropriate legal tipping site.

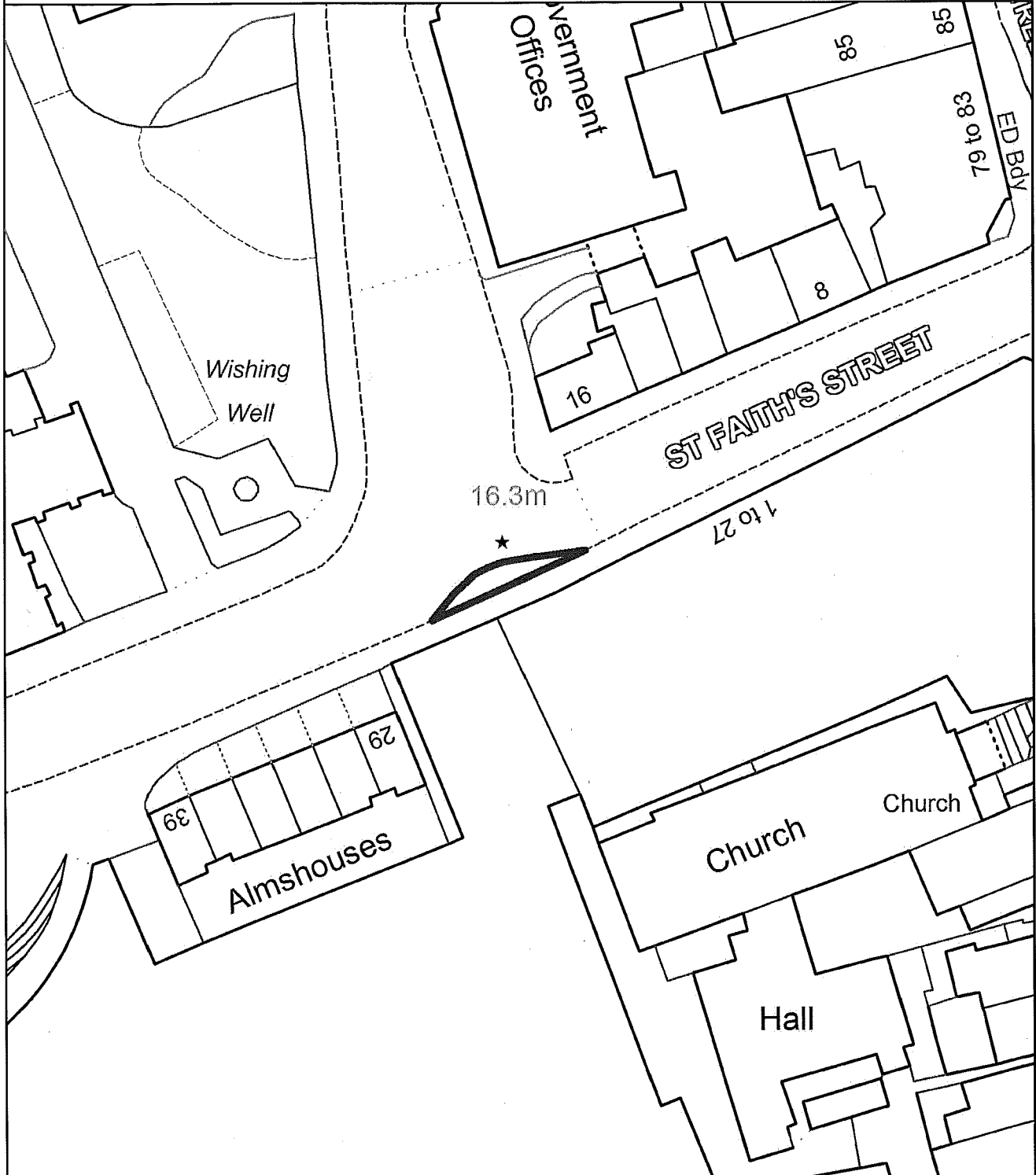
The proposed development, subject to the conditions stated, is considered to comply with the policies of the Development Plan (Maidstone Borough-Wide Local Plan 2000 and South East Plan 2009) and there are no overriding material considerations to indicate a refusal of planning consent.

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/10/0070

GRID REF: TQ7555

CCTV COLUMN, ST FAITH'S STREET,
MAIDSTONE.



This copy has been produced specifically for Planning and Building Control Purposes only. No further copies may be made. Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationary Office ©Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. The Maidstone Borough Council No. 1000019636, 2009. Scale 1:500



Alison Broom
Director of Prosperity and Regeneration

APPLICATION: MA/10/0070 Date: 18 January 2010 Received: 19 January 2010

APPLICANT: Maidstone Borough Council

LOCATION: CCTV COLUMN, ST FAITHS STREET, MAIDSTONE, KENT, ME14 1LJ

PARISH: Maidstone

PROPOSAL: Planning application for erection of CCTV column with camera equipment (6m in height) on south side of St. Faiths Street, opposite Station Road, to replace existing camera on north side of St. Faiths Street as shown on the 1:500 scale location plan and the photomontage received on 19/01/10 and as described in the Design and Access Statement received on 19/01/10.

AGENDA DATE: 25th February 2010

CASE OFFICER: Angela Welsford

The recommendation for this application is being reported to Committee for decision because:

- the Council is the applicant

1.0 POLICIES

- 1.1 The South East Plan RSS 2009: BE1, BE6.
Government Policy: PPS1, PPG15, PPG16.

2.0 RELEVANT HISTORY

- 2.1 None.

3.0 CONSULTATIONS

- 3.1 CONSERVATION OFFICER:** "Whilst the proposed location is acceptable, and probably better than the existing in terms of its effect on the historic environment, it will result in a degree of street furniture clutter at this point (road sign, street lamp and CCTV camera, all mounted on separate poles). Is there no possibility of co-ordination to minimise the number of separate structures? It is, therefore, recommended that on heritage/design grounds no objection is raised but the developer should be encouraged to achieve a better quality scheme by addressing the above issues."

4.0 CONSIDERATIONS

4.1 The Site

4.1.1 The application site is an area of pavement on the south side of St Faiths Street, opposite the junction with Station Road in Maidstone Town Centre. It is near to the Chillington House Conservation Area, and in fairly close proximity to the Grade II* listed Maidstone Museum as well as a number of Grade II listed buildings. The area is identified as having the potential for discovery of archaeological remains.

4.2 The Proposal

4.2.1 Planning Permission is sought for the erection of a 6m high CCTV column with camera equipment. (This would replace an existing camera on the north side of St. Faiths Street close to the museum, and would provide better coverage of the museum frontage and Station Road). There would be no need for a separate equipment cabinet as the proposed new column would house all of the control equipment required.

5.0 PLANNING CONSIDERATIONS

5.1 Impact on the Street-scene

5.1.1 In my view, the proposal would have minimal impact on the street-scene. The new column would be located adjacent to an existing lamp post and traffic sign, and would be painted in Maidstone Borough Council's corporate blue to match. As such, it would blend in with the existing street furniture. The Conservation Officer is concerned that, whilst the proposed location is better than the existing in terms of the impact on the historic environment (see below), it may result in a degree of street furniture clutter at this point. However, in my view this proposal would not result in a cluttered appearance to the street due to the relatively low number (only three) of slim-line structures and the widening of the pavement at this point. I therefore do not consider that the proposal would harm the character or appearance of the street-scene.

5.2 Impact on the Historic Environment

5.2.1 As the proposal would blend in with existing street paraphernalia it would not, in my view, look out of place or harm the setting of the adjacent Chillington House Conservation Area, which, incidentally, already contains similar street furniture.

5.2.2 There would be a sufficient degree of separation to avoid any harm to the setting of the Grade II listed almshouses to the south-west (approximately 10m separation), the group of Grade II listed buildings to the north-east on the

corner of St Faiths Street with Station Road (approximately 16m separation), or Maidstone Museum, which is Grade II* listed (approximately 30m separation).

5.2.3 The Conservation Officer has not raised objection in this respect.

5.2.4 I therefore consider the impact on the historic environment to be acceptable.

5.3 Impact on Archaeology

5.3.1 Given the limited amount of groundwork involved, and the fact that this would take place within an existing hard-surfaced (and therefore developed) area, I do not consider that any archaeological measures will be necessary.

5.4 Impact on Residential Amenity

5.4.1 The proposed position of the camera would mean that it would face towards Maidstone Museum and its garden with a partial view up Station Road. The almshouses, which are the closest residential properties, would be behind it to the left, so would not suffer a significant loss of privacy. Indeed, the proposal would actually be an improvement in this respect since the camera that would be replaced is on the north side of St Faith's Street, just opposite the almshouses.

5.4.2 Similarly, it would also be angled away from the residential properties at the St Faith's Street/Station Road junction, so again would not result in a significant loss of privacy.

5.4.3 Furthermore, the camera would clearly have the purpose of providing anti-crime surveillance. Consequently, it is considered reasonable to assume that its key focus would be upon the museum frontage and the street, rather than nearby windows.

5.4.4 There are no loss of light or overbearing impacts to consider.

5.5 Impact on the Highway

5.5.1 The new CCTV column would be grouped with an existing lamp post and road sign at the front edge of the pavement at a point where it widens so would not obstruct pedestrians, including wheelchair users and pushchairs.

5.5.2 It would not impact upon vehicular traffic using St Faiths Street or Station Road.

5.6 Other Matters

5.6.1 The application site is an existing area of pavement in Maidstone Town Centre, and as such there are no ecological or landscaping impacts to consider.

5.7 Conclusion

5.7.1 Taking all of the above into consideration, the proposal is considered to comply with Development Plan Policy and there are no overriding material considerations to indicate a refusal. I therefore recommend approval subject to conditions as set out below.

6.0 RECOMMENDATION

GRANT PLANNING PERMISSION subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission;

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The CCTV column hereby permitted shall be painted in Maidstone Borough Council's corporate blue within one month of its installation and thereafter maintained as such unless otherwise agreed in writing by the Local Planning Authority;

Reason: To ensure a satisfactory appearance to the development in accordance with Policies BE1 & BE6 of The South East Plan RSS 2009.

The proposed development, subject to the conditions stated, is considered to comply with the policies of the Development Plan (Maidstone Borough-Wide Local Plan 2000 and South East Plan 2009) and there are no overriding material considerations to indicate a refusal of planning consent.

Agenda Item 24

THE MAIDSTONE BOROUGH COUNCIL **PLANNING COMMITTEE – 25.02.10**

APPEAL DECISIONS:

- 1. MA/08/2070 - An application for a certificate of lawfulness for an existing development being the stationing of a mobile home for use as a single residential unit as described in application MA/08/2070.**

APPEAL: WITHDRAWN

HOLLY STUD, SCRAGGED OAK ROAD, DETLING,
MAIDSTONE, KENT, ME14 3HA

(Delegated Powers)

-
- 2. MA/09/0731 - Planning application for the change of use of land to residential use for the stationing of 2no. mobile homes and 1no. touring van with associated works including access, area of hardstanding, boundary treatment and gates, utility shed, 2no. stable blocks, 2no. storage sheds and cess pool as shown on 6 unnumbered drawings received on 6/5/09 and 24/6/09.**

APPEAL: ALLOWED WITH CONDITIONS

PEAR PADDOCK, SYMONDS LANE, YALDING,
MAIDSTONE, KENT, ME18 6HA

(Delegated Powers)

-
- 3. MA/09/0732 - Planning application for the change of use of land to residential use for the stationing of 2no. mobile homes and 1no. touring van with associated works including area of hardstanding, fencing, shed, stables and 2no. cess pools as shown on 6 unnumbered drawings received on 6/5/09 and 24/6/09.**

APPEAL: ALLOWED WITH CONDITIONS

PEARVIEW, SYMONDS LANE, YALDING, MAIDSTONE,
KENT, ME18 6HA

(Delegated Powers)

-
- 4. MA/09/0510 - Erection of a detached agricultural dwelling as shown on drawing numbers SK001, SK002 (IDB/5), SK003 (IDB/6), 1 rev D, 2 rev D, 3 rev D**

and 4 rev D, and supported by a design and access statement and confidential management accounts and financial statements all received 25th March 2009 and further financial information received on 5th, 12th and 22nd June 2009.

APPEAL: ALLOWED WITH CONDITIONS

FAR ACRE FARM, GOUDHURST ROAD, MARDEN,
TONBRIDGE, KENT, TN12 9LT

(Planning Committee)

Agenda Item 25

MAIDSTONE BOROUGH COUNCIL

PLANNING COMMITTEE

25 FEBRUARY 2010

REPORT OF THE DEVELOPMENT CONTROL MANAGER

Report prepared by Rob Jarman

1. RESULTS OF CONSULTATION ON THE PLANNING ENFORCEMENT POLICY STATEMENT INCLUDING PRACTICE STANDARDS

1.1 Issue for Decision

1.1.1 To consider the results of the consultation on the draft Planning Enforcement Policy.

1.2 Recommendation of the Development Control Manager

1.2.1 That the consultation responses, and officer comments on those responses, be noted and the draft document amended, as at Appendix A, to be sent to the Cabinet Member for Regeneration for adoption.

1.3 Reasons for Recommendation

1.3.1 Introduction

1.3.2 The draft Planning Enforcement Policy was reported to Planning Committee on 24 September 2009. It was agreed that the draft should be sent out to consultation. This was duly done with the consultation period running from 14 October 2009 to 25 November 2009.

1.3.3 The draft was also been presented to the Annual Meeting of Maidstone Parish Councils in December 2009. Secondly, it has also been included as a 'key decision' with entry onto the Forward Plan. The Cabinet Member for Regeneration will take the final decision to adopt the document in March 2010.

1.3.4 A copy of the amended draft policy is attached as Appendix A.

1.4 Results of Consultation

1.4.1 The following organizations have made summarized representations and each one is commented on in turn.

1.4.2 Coxheath Parish Council

- Too much "imprecision" and too many "weasel words" such as "where expedient" and "where appropriate". Frustrated by the perceived unwillingness to enforce conditions and the tendency to back down from confrontation.
- Question a policy that implies that enforcement action will only be taken where there is significant harm. Question who should decide whether the harm is significant. "Parish Councils will argue that they are perhaps better placed as elected representatives of their communities, to judge the extent of harm caused by non-compliance with conditions but the decision process is unclear."
- Underlying suggestion of selective enforcement for unauthorized development (Para 13.1 Policy EP9). The Parish Council see this as another sign of weakness. There will also be a loss of planning fee income and the ability for Parish Councils to comment is lost (Policy EP10).

More specific concerns:-

- a) Paragraphs 3.1 (iii) should read "breach of planning control would unacceptably affect public AND PRIVATE amenity."
- b) Paragraph 4.2 (iii) Rather than buildings and people" would it not be better to say "quality of life and amenity."
- c) "Paragraph 7.1. Reference is made to 'the approved matrix methodology. What is the matrix methodology?"
- d) Paragraph 18.2. The Reference to 'transferring' a complaint is not understood. How are statutory consultees to report suspected breaches of planning permission other than by contacting the Enforcement Section?
- e) Paragraph 19.2 (Practice EN3). The practice seems to be limited to dwelling houses but surely it should also apply to other buildings where material change of use has occurred.

1.4.3 Officer Comment

1.4.4 The general opinions of the Parish are not in tune with the spirit of PPG18. A fundamental fact concerning planning enforcement is that a Local Planning Authority is not obliged to take enforcement action, rather, it has to consider the expediency of taking enforcement action. Moreover, Local Planning Authorities do enjoy strong powers with

regard to Direct Action, prosecutions and injunctions and with such powers the law requires them to act reasonably and this has to be proportionate to the level of harm being caused.

1.4.5 With regard to the detailed points I would comment that planning is essentially concerned with public amenity and I remain satisfied with the distinction I draw in paragraph 4.2 (iii). The 'matrix methodology' relates to a prioritization methodology and this was attached as an appendix to the draft Policy. It would be of greater help if Parish Councils could help identify planning harm when passing on complaints to the Council's Planning Enforcement Team.

1.4.6 Finally, I agree, in general terms, with Coxheath Parish Council's last point on changes of use. However, Practice EN3 relates solely to dwelling houses.

1.4.7 Stockbury Parish Council

"The consensus is that the draft is generally acceptable. Particular note was made of paragraphs 11.1, 12.1 to 12.3 and 22.3. Another point made was the importance of time taken to respond. It follows, therefore, that the Policy must be complied with by Maidstone Planning Enforcement and appropriate action taken.

1.4.8 Officer Comment:

A key general target for the Enforcement Team is timeliness.

1.4.9 Teston Parish Council

Acknowledge that resources are limited and that prioritization has merit. Concerned that the 'matrix' (priority system) employs subjective weightings. The Parish Council see "huge potential for individual 'grumbling' complaints to be continually relegated towards the bottom..."

1.4.10 Therefore recommend: -

- a) A modest amount of resources devoted to low priority complaints, say 10%
- b) "the lower priority complaints for such attention to be nominated by Parish Councils ... or through some other local body, with such complaints perhaps addressed on a round-robin basis between those local bodies". Attention should not be solely focused on high priority cases.

1.4.11 Officer Comment

A prioritization system is purely to do with speed and matching resources to the degree of harm being caused. Local Planning Authorities have to respond to all complaints within a reasonable period of time otherwise it can be alleged that there has been maladministration.

1.4.12 Boxley Parish Council

"Members welcomed the preliminary draft. Agreed this document should contain/would benefit from a flow chart, timescales and clearly identified targets for completion of the work. It would also benefit from a timescale for management reports to show the effectiveness of the policy."

1.4.13 Officer Comment

I consider that these are two sensible points and agree with both. Therefore, I have changed EP1 to reflect this.

1.4.14 Medway Internal Drainage Board

- MBC needs to act quicker on breaches of planning.
- MBC need to be consistent. Often "too heavy-handed with normal law abiding citizens trying to improve their homes..." but fail to punish in respect of gypsies.
- A "tougher" stance should be taken on retrospective applications which are inappropriate. These should not be allowed to drift.
- "Building in the flood plain needs to be taken more seriously..."
- Conditions need to be complied with and monitoring take place.
- "Enforcement needs to actually mean enforcement. Be tougher and not just threats in writing."

1.4.15 Officer Comment

These would appear to be a series of opinions on enforcement in general and the performance of the Enforcement Team.

1.4.16 Kent Wildlife Trust (Keith Nicholson 12/11/09)

- "EP3. The term "major" harm should be defined; or at least the factors that will be taken into account in judging whether or not harm is "major" should be listed.
- EP7. The term "serious" harm should also be defined or explained.

- "Communications." It is recognized that a balance needs to be struck between resources dedicated to communicating with complaints and "getting on with the job". However, a commitment should be given to acknowledging complaints and keeping complainants in the picture. Suggest issuing routine progress reports e.g. by e-mail so this can mitigate against the impact of time-consuming telephone and e-mail 'progress' enquiries.
- "Conclusion" support "negotiated" solutions but queries the extent to which complainants are part of the negotiations. "In my view, those who suffer the nuisance (or who seek to protect the environment from harm) should be party to every such negotiation..."

1.4.17 Officer Comment

I consider that terms such as "major" and "serious" are clear to people and that examples would be too numerous. All complaints are acknowledged and when cases are closed this is communicated to the complainant, secondly, Parishes and Borough Councillors get a quarterly enforcement update but this has not led to a decrease in telephone calls and emails. Lastly, negotiations involving multi-parties run the risk of being open ended in terms of time-scales and are resource hungry. My view is that the Enforcement Team need to take a strong lead.

1.4.18 Kent Wildlife Trust (Debbie Salmon 23/11/09)

- Para 4.3 – needs to mention biodiversity. Therefore, recommend bullet point 2 be changed to: -

"Assess whether the breach of planning control affects public amenity or causes harm to land, buildings or biodiversity."
- EP1: recommends a time period for review of the document is stipulated within EP1.
- EP8: as well as significant harm to amenity, significant harm to nature conservation interest should be included.
- "25.2. It is often the case that the Trust is alerted to works that do not have planning permission only when these works are being carried out on site. Our most frequent calls are regarding tree felling, where bats are reported to be present, tree felling in the bird nesting season and site clearance or pond works where reptiles, great crested newts or ground nesting birds are present. If the biodiversity interest is not to be lost on site a site notice may also be needed in these situations. Due to the frequency of site clearance without permission the Trust

would recommend that protected species issues also be mentioned as an example when a stop notice may be used.”

1.4.19 Officer Comment

With regard to the first point, I consider that the term “land” in this broadest sense would incorporate biodiversity. I agree with the second point (see my comments with regard to Boxley Parish Council). With regard to the third point I accept that this change would be appropriate. Finally, I agree that protected species can be mentioned as an example of where stop notices should be issued.

1.5 Alternative Action and why not Recommended

1.5.1 It could be decided not to adopt an Enforcement Policy, but this would not be in line with best practice and audit requirements, as a policy clearly sets out the framework in which the Enforcement section will operate.

1.6 Impact on Corporate Objectives

1.6.1 The policy will provide a framework for the operation of the Planning Enforcement team. Planning Enforcement has an impact on all Council objectives as it controls the quality and design of the built and natural environment.

1.7 Risk Management

1.7.1 No significant risks from introducing a policy. Existing risks of the Council being exposed to potential ombudsman complaints and judicial review would be further reduced in likelihood by the introduction of the policy.

1.8 Other Implications

1.8.1

1. Financial	X
2. Staffing	
3. Legal	X
4. Equality Impact Needs Assessment	
5. Environmental/Sustainable Development	
6. Community Safety	

- 7. Human Rights Act
- 8. Procurement
- 9. Asset Management

1.8.2 Financial - No additional costs or direct savings result from the adoption of the policy, but the document sets a framework that allows for better resource management within the section in order to tackle prioritized cases.

1.8.3 Legal - The policy would represent the framework within which the Council would be expected to operate. This will improve our position if we are challenged on how we handle individual cases.

1.9 Background Documents

1.9.1 None

Appendix A

DRAFT

PLANNING ENFORCEMENT
POLICY STATEMENT INCLUDING
PRACTICE STANDARDS

Rob Jarman
DC Manager
February 2010

1 Objectives

1.1 Maidstone Borough Council's Strategic Plan 2009-12 sets out 5 'priority themes':-

1. A place to achieve, prosper and thrive
2. A place that is clean and green
3. A place that has strong, healthy and safe communities
4. A place to live and enjoy
5. A place with efficient and effective public services.

1.2 The Planning Enforcement service is an integral component of the planning system which is this Council's key statutory service with regards to the 'place shaping agenda'. By shaping places, planning affects each one of the 5 'priority themes'. Enforcement can be used as a 'stick' to ensure that the planning system delivers the developments, that have been the subject of the development control system, on the ground.

1.3 In terms of detailed objectives, the Enforcement Service seeks: -

- i) To investigate breaches of planning control
- ii) For the type of enforcement action to be commensurate with the harm
- iii) To be fair and be applied equitably.
- iv) For enforcement action to only be taken when significant harm is being caused.
- v) For enforcement complaints to be prioritised.
- vi) To operate efficiently and effectively.
- vii) As a preliminary consideration – to seek to resolve a breach through a negotiated settlement.

2 Background

2.1 Enforcement action is a discretionary activity but it is regularly required to manage development. Maidstone Borough Council acknowledges the importance of effectively controlling unauthorised development in to the protection of the quality of both the natural and built environment and the quality of people's living standards. The integrity of the Town and Country Planning process depends on the Council's effectiveness in taking enforcement action against unauthorised development when it is expedient to do so. Expediency depends on the degree of harm being

caused and whether or not a negotiated solution is likely to be achieved, whether it is a suitable course of action in comparison with other legislation and that it is advantageous for the Council to take such action rather than other statutory organisations (such as the Environment Agency).

- 2.2 This document sets out Maidstone's proposed Planning Enforcement Policy. Central Government, in the 'Good Practice Guide' for Local Planning Authorities (ref: the Department of the Environment, Transport and the Regions Circular No. 10/97 'Enforcing Planning Control' advises Local Planning Authorities to formulate a clear statement of their enforcement policies. This will provide a decision-making framework and enable effective enforcement standards, procedures and practices to be implemented and monitored. This Statement will inform members of the public of this Council's enforcement practices and standards.
- 2.3 Planning law is part of administrative law rather than criminal law and so it is not normally a criminal offence to breach planning control albeit there are some exceptions e.g. Listed Buildings and Advertisement Control. The key objective in taking enforcement action is to remedy the negative impacts of the breach of planning control rather than to punish the person(s) carry out the breach. The question of punishment and (if applicable) its severity is a matter for the courts.
- 2.4 Planning enforcement activity is almost always labour intensive. Thorough investigation of the relevant planning history and exhaustive evaluation of the facts is the bedrock of effective enforcement and takes considerable time and resources.

3 Central Government advice

- 3.1 PPG18 'Enforcing Planning Control (December 1991) sets down clear advice as to when enforcement action should be taken and sets down the general approach to enforcement. It states that local authorities should be guided by the following considerations:
 - i) Parliament has given Local Planning Authorities the primary responsibility for taking whatever enforcement action may be necessary in the public interest in their administrative area (the private citizen cannot initiate planning enforcement action);
 - ii) The Commissioner for Local Administration (The Local Ombudsman) has held, in a number of investigated cases, that there is "maladministration" if an Authority fails to take effective enforcement action which was plainly necessary, and has, occasionally, recommended a compensatory payment to the complainant for the consequent injustice.

- iii) In considering any enforcement action the key issue for the Local Planning Authority should be whether the breach of planning control would unacceptably affect public amenity or the existing use of land and buildings meriting protection in the public interest.
- iv) Enforcement action should always be commensurate with the breach of planning control to which it relates (e.g. it is usually inappropriate to take formal enforcement action against a trivial or technical breach of planning control which causes no harm to amenity in the locality of the site); and
- v) Where the Local Planning Authority's initial attempt to persuade the owner or occupier of the site voluntarily to remedy the harmful effects of unauthorised development fails, negotiations should not be allowed to hamper or delay whatever formal enforcement action may be required to make the development acceptable on planning grounds, or to compel it to stop. The Local Planning Authorities should bear in mind the statutory time limits for taking enforcement action.

3.2 The 'Good Practice Guide' for Local Planning Authorities contained within the Department of the Environment, Transport and the Regions Circular No. 10/97 'Enforcing Planning Control' sets out some do's and don'ts in relation to enforcement action and states: -

DON'TS

- Don't enforce solely to regularise acceptable development.
- Don't enforce solely to obtain a fee.
- Don't give weight either way to the fact that the development has already taken place.
- Don't have regard to other immaterial (non planning) considerations.
- Don't let protected negotiations delay essential enforcement action.
- Don't seek to restore land to a better condition than it was in before the breach took place.
- Don't be too legalistic.
- Don't be strong with the weak and weak with the strong.
- Don't forget to withdraw a redundant Notice in good time.
- Don't require immediate compliance with an Enforcement Notice that does not give a period.

DO'S

- Do have enforcement principles.
- Do be prepared to give reasons for taking enforcement action, on inviting applications or ignoring breaches of planning control.
- Do use appropriate investigative powers.

- Do allocate the necessary resources to see action through to the end.
- Do delegate sensibly.
- Do use plain language.
- Do set priorities for enforcement action.
- Do be prepared to use all the enforcement powers available, commensurate with the seriousness of the breach.
- Do have regard to the Council's obligations under other legislation which may be involved as a result of enforcement action.

3.3 Mindful of this advice the Maidstone Borough Council intends to adopt the following strategic approach to enforcement.

4 The Council's Approach to Enforcement

4.1 The Council accepts that the expeditious initiation of enforcement action is vital to prevent a breach of planning control from becoming well established and more difficult to remedy and it recognises the importance of establishing controls over unauthorised development. The Council will not condone wilful breaches of planning control and will exercise its discretion to take enforcement action if it is considered expedient to do so. The Council will investigate alleged breaches of planning control, to determine whether a breach has, as a matter of fact occurred, and if it has, to determine the most appropriate course of action.

4.2 It is the Council's objective in taking enforcement action to: -

Ensure that decisions are made in accordance with the Development Plan unless material considerations (e.g. Central Government advice in the form of PPGs, PPSs and circulars etc) indicate otherwise and the development does not clearly and significantly affect: -

- i) The environment
- ii) The quality of the landscape
- iii) Its buildings and people, or
- iv) Highway safety

4.3 In determining whether or not it is expedient to take enforcement action the Council will:-

- Pay due regard to the Development Plan Policies in force, Central Government Guidance and to all other material considerations.
- Assess whether the breach of planning control unacceptably affects public amenity or causes harm to land or buildings.
- In appropriate cases, attempt to persuade an owner or occupier of land to voluntarily remedy any harmful effects of unauthorised development, but
- Not allow the requirement to negotiate to unreasonably hamper or delay enforcement action that may be required to

make, the development more acceptable on planning grounds or to make it stop.

- Not take action against trivial or technical breaches of planning control that do not unacceptably affect public amenity which are unlikely to intensify and where it is not in the greater public interest to do so. For example, changes to the size and location of approved developments by less than 250mm and, secondly, substituting of similar materials.
- Not take action solely in order to regularise an unacceptable development or obtain a fee.
- Make decisions which accord with the Human Rights Act 1998.

4.4 In meeting its objectives the Council will:-

- i) Ensure that reaction times (throughout the process) are proportionate with the level of harm caused by a breach.
- ii) Allocate resources appropriate to the level of harm caused by the breach.
- iii) Utilise all the legal powers (not necessarily solely Town and Country Planning) available appropriate to the breach.
- iv) Pursue action commensurate with the breach.
- v) When resources are fully stretched, the sole forces will be on the resolution of the top priority cases.

5 Strategic policies for enforcing planning control

5.1 The Council recognises its responsibility, given by Parliament, to investigate and resolve, as appropriate, breaches of planning control.

5.2 The Council has to deal with increasingly high volumes of complaints and has reviewed the enforcement function to deal with these complaints. There are a number of reasons for this increasing level of activity including: -

- i) An increasing public awareness of environmental issues.
- ii) An increasing negative approach to the development control process by the public in order to protect and enhance property prices.
- iii) Increased public participation in the development control process allied to the fact that other regulatory functions e.g. Building Control, Environmental Health, Highways do not allow for such direct public participation.
- iv) Increased public expectation of the Planning System to protect the quality of people's lives and an increasing expectation that planning, as opposed to other regulatory services will solve all problems between neighbours.
- v) Increased public expectation that the Planning Systems will punish any breach of planning control.
- vi) Lack of communication and respect between neighbouring land users.

- vii) Increasing tendency for Councillors to act as 'agents' and/or 'brokers' by applying pressure in the speed and level of enforcement action.
- viii) Although there are formal recourses over enforcement action or lack of enforcement action, notably, Judicial Review and the Local Government Ombudsman there are also a number of internal review sections within the Council.

5.3 This increased public awareness gives rise to an increased level of complaint. This necessitates the need to periodically review the tasks, performance and resources of the enforcement function through the Service Plan process to ensure that its resources are properly directed and managed in the interests of the Borough as a whole.

POLICY EP1: To meet its statutory duty and meet the reasonable expectations of local residents the Council will review the enforcement function from time to time. Initially, this will be a 6 month review period with particular emphasis on the need for the 'matrix' priority system and every 3 years thereafter.

6 Speed of reaction to complaints

6.1 The public expects their complaints to be addressed as urgently as possible. However, amongst the complaints received there are many which are not in fact planning matters and others that are more appropriately dealt with by other authorities or other functions of the Council.

6.2 It is recognised that complaints need to be investigated and seen to be acted upon reasonably quickly and efficiently. However, existing enforcement workload often precludes immediate action on all complaints received and therefore the Enforcement Section has adopted a system of prioritising investigation of complaints based on the effect of the breach of planning control. This is called the 'matrix' and has been agreed by Committee (see Appendix 1).

6.3 It is also necessary for the complainant and other interested parties to be informed of decisions taken on enforcement matters.

POLICY EP2: All planning enforcement complaints received by the Council's enforcement function will be examined and, where appropriate, an initial site visit to verify the breach and prioritise the case will take place within 14 days of receipt.

7 Prioritisation based on level of harm

7.1 Following careful consideration of the complaint, including research of the planning history, and once a site visit has identified the nature of the breach and the degree of harm caused by the breach, the complaint will be prioritised into categories based on harm caused to interests of acknowledged on planning importance. This Council's

adopted methodology is a 'matrix' system. The 6 criteria for prioritisation are:-

- Estimated resource to proceed with enforcement action
- Immunity from enforcement action
- Degree of harm being caused
- Local priorities
- Planning policy framework
- Future impact

Scores are calculated to rank priority.

POLICY EP3: The Council's enforcement resources will be concentrated on those breaches causing the major harm or having the potential to cause major harm. All significant breaches of planning control will be prioritised using the approved 'matrix' methodology. However, the detailed weightings will be simplified within the next 6 months.

7.2 The matrix system has been approved by Maidstone Borough Council's Planning Committee. To illustrate the implementation of this prioritisation system, for example, a Listed Building which has had extremely unsympathetic alterations to it over a period of time is likely to score highly in terms of prioritisation. A detailed example of an enforcement case is attached as appendix 1, this detailed methodology has already approved by Members.

7.3 There is often a clamour for enforcement action to be taken immediately which, for the reasons set out above, an unrealistic expectation. So in order to maintain an effective enforcement service and to manage the expectations of the public and Councillors, there must be reliance on a prioritisation system.

7.4 On occasions a breach of planning control which may start as a high priority causing serious harm may change and be brought partially under control to the point where little harm is being caused. The priority system must therefore be flexible enough to allow for changing priorities throughout the 'life' of a case.

8. Investigating alleged breaches of Planning Control

8.1 Town and Country Planning legislation provides a Local Planning Authority with a range of tools to investigate and resolve breaches of planning control. Investigative tools include Rights of Entry, Planning Contravention Notice and Requisitions for Information. Additionally, the Council has some technical equipment to monitor sites and has limited resources. As a result, the Council may require the assistance of local residents in monitoring or corroborating the alleged activities.

POLICY EP4: The Council will use all the tools and facilities available to it in investigating breaches of planning control including the assistance of the public when appropriate.

9. Using available enforcement tools

9.1 Once clear evidence has been obtained that a breach of planning control has as a matter of fact occurred, and that a breach is not immune from enforcement action, the Council has a range of options available to deal with the issue. In determining which option to adopt the Council will be mindful that the primary function of enforcement is to bring to an end the harmful effects of the unlawful development as soon as practicable.

9.2 In certain cases where very serious harm is likely to result, a Local Planning Authority has the facility of seeking the assistance of the Courts in restraining an anticipated breach of planning control. In such cases the Council will need to convince the Court that the breach is indeed likely to take place, will cause serious harm to interests of planning importance and that all material planning considerations, including Human Rights issues, have been taken into account.

9.3 If a breach of planning control is causing major harm and an Enforcement Notice has been served and the time for compliance has elapsed then the Council will consider taking Direct Action or Prosecution proceedings.

POLICY EP5: The Council will use the full range of Enforcement and other Notices available to it and when appropriate will seek injunctions from the Courts to prevent or restrain breaches of planning control. In cases where major harm is being caused direct action or prosecution proceedings will be undertaken.

10. Minor technical breaches

10.1 Enforcement action shall always be commensurate with the breach of planning control to which it relates and formal action against trivial or technical breaches of planning control which cause minor harm to amenity in the locality of the site will, in accordance with Central Government advice, not be taken.

11. Dealing with serious breaches of Planning Control

11.1 Occasionally, certain types of breaches of planning control cause serious harm to interests of acknowledged importance and can happen very quickly. For example, an unauthorised caravan encampment of over 10 mobile homes which, if immediate action is not taken, can result in permanent consideration of the use to the detriment of local amenity.

11.2 Although most breaches of planning control can be brought under control and the previous situation restored, on occasion such contraventions as harm to Listed Buildings or felling of trees the subject of a Tree Preservation Order (TPO) can cause irreparable

harm. In such cases it may be appropriate to use the most powerful tools to prevent or control permanent and irreparable damage.

POLICY EP7: The Council will apply to the Courts for injunctions under the provisions of Section 187B of the Town and Country Planning Act 1990, and other legislation, to restrain anticipated and actual breaches of planning control where those breaches are, or are likely to, cause serious or irreparable harm to interests of acknowledged importance.

12. Non-compliance with planning conditions

12.1 Simply put planning conditions are imposed to make an otherwise unacceptable development acceptable. Therefore, where conditional planning permission has been granted and those conditions imposed have not been complied with within a specified period, consideration will be given as to whether it is appropriate to issue an Enforcement Notice for non-compliance with the planning conditions imposed or to issue a Breach of Condition Notice.

12.2 The advantage of serving a Breach of Condition Notice is that there is no right of appeal to the Secretary of State against the Notice and, unlike an Enforcement Notice, its effect cannot be suspended by means of an appeal. The failure to comply with a Breach of Condition Notice is a criminal offence. A Breach of Condition Notice should not, however, be served if there is any doubt as to the validity of the condition.

12.3 The advantage of serving an Enforcement Notice is that its requirements can be more flexible than those contained in a breach of Condition Notice. Where an Enforcement Notice has not been complied with the Council can exercise its default powers by entering the land and carry out any works required by the Notice.

POLICY EP8: Where conditional planning permission has been granted, but conditions have not been complied with, significant harm is being caused to amenity or other matters of significant interest (e.g. nature conservation) and it is in the public interest to do so, a Breach of Condition Notice or an Enforcement Notice will be served, depending upon the circumstances of each case.

13. Granting unconditional planning permission for unauthorised development

13.1 Where development, which requires planning permission, has been carried out, or is in the process of being carried out, a careful assessment shall be made to establish if it is likely that unconditional planning permission would be granted for the development. If planning permission is likely to be granted, a retrospective planning application shall be requested. Where an application has been requested but not submitted within a reasonable time, the

owner/occupier of the land will be informed that without a specific planning permission for the development, there may prove to be conveyancing implications when disposing of the land as no evidence can be produced of planning permission having been granted for the development. Where there is no specific planning objection to the development, enforcement action will not normally be considered appropriate.

POLICY EP9: Where development has been carried out without planning permission and unconditional planning permission would be likely to be granted but where the owner/occupier refuses to submit a planning application, the owner/occupier will be informed of the implications of having carried out the development without planning permission. Where there is no planning objection to the development, formal enforcement proceedings will not normally be initiated.

14. Under-enforcement

- 14.1 Where development has been undertaken without planning permission and the development could be made acceptable by imposing planning conditions to remedy the impact of any breach, an application for retrospective planning permission shall be requested to be submitted within a reasonable period. If, after a reasonable period, the owner or occupier of the land appears unwilling to submit a planning application, an Enforcement Notice will normally be issued. The Notice would have the effect of granting planning permission subject to full compliance with those steps specified in the Notice, which will remedy or alleviate the injury caused by the development. The Enforcement Section, in these circumstances, will notify complainants together with the Ward Members (and where appropriate the Local Parish Council) that it is intended to take this action.

POLICY EP10: Where development has been carried out without planning permission and following comprehensive assessment, it is considered permission could be granted subject to conditions but the owner/occupier refuses to submit a planning application, an Enforcement Notice will normally be served, the effect of which will be to grant planning permission provided the requirements of the Notice have been carried out.

15. Periods for compliance with the requirements of an Enforcement Notice

- 15.1 When a breach of planning control has been considered to be unacceptable and significant harm is being caused, it is necessary to determine an appropriate period in which the contravener has to comply with any necessary steps to alleviate the breach of planning control. In determining periods for compliance it is reasonable to consider for example, the feasibility of relocation for a small business, the availability of alternative gypsy sites, the effect of enforcement action on important employment, the effect of enforcement on the

economic viability of a site, the affect of the action on the self employed and the social costs on the owner/occupier of the land in question.

- 15.2 It is not normally the Local Planning Authority's responsibility to seek out and suggest to an owner/occupier of land on which unauthorised development has taken place, an alternative site which may be more acceptable in planning terms. However, if a suitable site is known it will be suggested in order to build a constructive dialogue, and a time limit for relocation agreed. An Enforcement Notice will be served with a compliance period, which reflects the agreed timetable.
- 15.3 Where the unauthorised development provides valuable economic activity and enforcement action seriously affects its viability, the Council will advise the owner/occupier how long the activity or operation shall be allowed to continue or to be reduced to an acceptable level of intensity. An Enforcement Notice will usually be issued allowing for a realistic period for compliance for the unauthorised activity or operation to cease, or its scale to be reduced to an acceptable level.
- 15.4 Enforcement action against unlawful and unacceptable development may result in social costs such as homelessness to the occupants and often significant disruption to the education of dependents, and health. Whilst not condoning any unlawful residential use of land, social costs may be relevant in determining appropriate action. Human Rights matters are clearly a material planning consideration. It is therefore reasonable that these social costs shall be taken into account in determining periods for compliance.

POLICY EP11: Where unauthorised development has taken place and causes significant harm, an Enforcement Notice will normally be issued which allows for a realistic period of compliance for the activity to cease, be relocated or its scale to be acceptably reduced. This will be carefully balanced against the need to ameliorate the harm caused by the development.

16. Concessionary timetables

- 16.1 In cases where an Enforcement Notice has been served which provides a reasonable time to discontinue the unauthorised development from the site or to relocate, and serious attempts are shown by the owner/occupier to comply with the requirements of the Enforcement Notice, the requirements of the Notice may be waived or released to provide additional time to enable, for example, a family to find alternative accommodation, or for a business to relocate or cease trading. This will be dependent on the actual level of harm caused by the unauthorised development.

POLICY EP12: Where it is clearly evident to the Enforcement Section, that serious attempts are being made to comply with the requirements of an Enforcement Notice, careful

consideration will be given to waive or relax any requirement in a Notice, including the compliance period.

17. Ensuring Compliance

17.1 In cases where enforcement action has been taken and the necessary steps for compliance have not been undertaken in time, the Council has several options to seek to bring about compliance with the requirements of a Notice. The Council can bring prosecution proceedings or obtain an injunction or exercise default powers, having gone through the Courts first. Default powers, also known as Direct Action, involve the Council using contractors, agents and often the Police, to carry out any or all of the steps required. Each mechanism has its advantages and disadvantages. Successful prosecution proceedings will, to a degree, punish the contravener but will not in itself bring to an end a breach of planning control. It may deter further contraventions but fines are often small and payable over long periods. Costs in Council prosecution cases are normally high and are frequently not fully recovered. Default action is often effective and relatively quick, especially in removing structures, but, the cost is normally high (although can sometimes be recovered). The primary consideration in determining what mechanism to use to ensure compliance with an Enforcement Notice is removing the harm being caused as soon as possible.

17.2 Enforcement decisions will be taken in accordance with the adopted Development Plan unless material considerations (notably, central government guidance) indicate otherwise (as per Section 38(6) of The Planning and Compulsory Purchase Act 2004).

POLICY EP13: The Council will consider using all the available tools to ensure compliance with an enforcement or other Notice and will select the mechanism that is most effective in bringing to an end a breach of planning control as soon as is practical.

18. ENFORCEMENT PRACTICES

18.1 The following practices will be adopted in dealing with enforcement complaints within the Borough in order to achieve a consistent approach.

18.2 Equity – It is acknowledged that Councillors wish to help the public, as does the Council, however, on occasions both Parish and Ward Councillors simply ‘transfer’ a complaint to the Enforcement Section. Members need to be aware of the Code of Conduct and, moreover, compliance with its practice. The Enforcement Section has to deal with complaints on an equitable basis and prioritise using the ‘matrix’ system.

Practice EN1: The Enforcement Section will deal with all complaints on an equitable basis and prioritise using the 'matrix' system or any successor system.

19. Minor/Technical Breaches

19.1 All operational developments should be carried out strictly in accordance with the plans and drawings approved under a planning permission. These approved plans and drawings are set out in the Decision Notice. However, some changes can be minor in nature. For example, changes in the location or size of developments by less than 250mm may not warrant enforcement action because the breach is deemed to be minor in nature. However, each case will be carefully considered and the onus is on the developer to carry out development in accordance with the approved plans.

Practice EN2: In certain cases, the difference between what has been built and what has been approved may be deemed too minor to warrant enforcement action.

19.2 In determining whether a material change of use has occurred, size and type of vehicles will be taken into account and the overall effect on the character of the dwelling house and surrounding area.

Practice EN3: Where a small commercial vehicle is parked in the curtilage of a dwelling house and is used solely by an occupant of that dwelling house to get to and from work and the vehicle(s) do not change the character of the dwelling house or surrounding area such use shall not be considered sufficiently material to constitute development. In other circumstances, planning permission is normally required and enforcement action will be considered.

20. Performance Management

20.1 For the effective management of the enforcement service productivity will be regularly scrutinised including the speed. As examples, the following will be measured: -

- Number of cases opened and closed
- Number of Planning Contravention Notices (PCNs) served
- Breach of Conditions Notices
- Enforcement Notices
- Injunctions
- Prosecutions
- Stop Notices
- Number of complaints where breach identified
- Cases closed because breach was resolved by negotiation
- Cases resolved by the submission of a planning application.

21. Elected Members

21.1 Members of Maidstone Council will continue to be trained and updated on enforcement matters at least twice a year. Training will also be available for Parish Councils.

21.2 It is recognised that some breaches of planning control and their remedy are particularly frustrating for Members. For example, Members often find retrospective planning applications difficult but, by law, these have to be judged by their own merits as with any planning application the retrospective nature of an application should make no difference.

22. Communications

22.1 Effective communication channels are essential to the functioning of an effective enforcement service. However, too much communication, for example, weekly progress reports leads to an inefficient enforcement service because too much resource is spent on communication rather than 'getting on with the job'.

22.2 Communication of enforcement matters needs to take into account the confidential nature of some of the information held. Therefore, when communicating with parishes, it will only be possible to consider releasing confidential information once a parish has demonstrated that it has the relevant standing order to deal with information confidentially. A template of this standing order is available from KALC.

22.3 Together we can ensure effective communication by:-

- Complaints about alleged breaches of control will be accepted by letter, e-mail, telephone or by personal caller provided the complainant provides their name, address, telephone number and e-mail.
- Anonymous complaints will not be accepted, although the complainant will be encouraged to refer the matter to either their elected Ward Member or their Parish Council representative to advance their complaint, should they wish to remain anonymous.
- To avoid malicious complaints, anonymous allegations of breaches of planning control will not be accepted. Every effort, however, will be made to reassure anybody wishing to make a complaint that his or her details will be kept confidential so far as other legislation permits it to be.
- Leaflets and, in particular, website information on standards of service.
- Publicising of actions and impacts including informing Land Charges and incorporating details of formal enforcement action e.g. Enforcement Notices on the Statutory Register.

23. Responsiveness

23.1 Where urgent action is required, notably, works to protected trees and listed buildings and out of hours enforcement services will operate.

24. Prevention

24.1 Resources have to be managed efficiently but, within tight resource restraints, both Enforcement and Development Control Officers will continue to monitor and pick up on potential breaches early on, particularly with regard to large developments. Monitoring will be linked to the commencement of large and controversial developments and key stages/phases afterwards and will involve liaison with Building Control. Site Notices giving details of contact points within relevant organisations will be posted and reminders of the need to comply with approved drawings and conditions enclosed with planning documents. Encouragement will also be given to large developers to build in accordance with the Considerate Contractors Scheme.

25. Subjects of enforcement investigation and action

25.1 Matters such as technical breaches and under-enforcement have been covered under the Policy section. In addition, there may be other cases in which it is not expedient to take prompt enforcement action. For example, a 3 year temporary permission for a gypsy site has expired because the site and use were not causing very significant harm and there are clear human rights issues to be considered. In such a case, communication and negotiation will be undertaken first and then, if unsuccessful, formal enforcement action.

25.2 Conversely, if a non-conforming commercial use, for example, starts up in a residential area without planning permission and is causing significant harm in terms of noise and general disturbance then urgent enforcement action will take place normally by the serving of a Stop Notice. Similarly, where damage is being done to important wildlife habitats then the serving of a Stop Notice will normally take place.

26. Conclusion

26.1 The key stages are:-

- Assessment of whether or not a breach of planning control has occurred. If so, then
- Assessment of whether or not significant harm is being caused. If so, then
- Assess what type of enforcement action to take and prioritise based on degree of harm.

Apart from urgent cases, a negotiated solution is preferred to formal enforcement action but any negotiation shall be undertaken according to strict parameters and timescales.



THE MAIDSTONE BOROUGH COUNCIL
Tree Preservation Order No. 20 of 2009
Tree on land at Ringers, Upper Street,
Leeds

Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. The Maidstone Borough Council Licence No. 100019636. Date: 15/9/2009 Scale 1:1250

Schedule

Individual Trees: T1 Silver Birch

Groups of Trees: None

Areas of Trees: None

Woodlands: None

I. K. T. Roman

Solicitor as authorised signatory

MAIDSTONE BOROUGH COUNCIL

PLANNING COMMITTEE

Agenda Date: 25th February 2010

**REPORT OF THE ASSISTANT DIRECTOR OF DEVELOPMENT AND
COMMUNITY STRATEGY**

REFERENCE: Tree Preservation Order No. 20 of 2009. Date: 11/09/2009

APPLICANT: N/a.

LOCATION: Tree on Land at Ringers, Upper Street, Leeds

PROPOSAL: Tree Preservation Order (TPO) No.20 of 2009 was made under section 201 of the Town and Country Planning Act 1990 to protect one Silver Birch tree. One objection to the order has been received and the Planning Committee is, therefore, required to consider this before deciding whether the Order should be confirmed.

CASE OFFICER: Guy Stephens

The recommendation for this TPO decision is being reported to Committee for decision because:

- One valid objection has been received

POLICIES

- Maidstone Borough Council, Landscape Character Assessment & Landscape Guidelines, 2000
- Government Policy: ODPM, 'Tree Preservation Orders: A Guide to the Law and Good Practice'

PLANNING HISTORY/ BACKGROUND

The tree was inspected on 4th September 2009 by Landscape Officers in response to a notification to fell the Silver Birch.

The grounds for the making of the Order are as follows: -

The Silver Birch tree is a mature, healthy specimen, prominent from Upper Street and therefore makes a valuable contribution to the character and amenity of the area. The tree is considered to be under threat due to a section 211 notification, TA/0106/09, to fell the tree. The reasons given for removal are

considered unreasonable. Therefore, it is considered expedient to make the tree the subject of a Tree Preservation Order.

The Section 201 direction bringing the order into immediate effect expires on 15th March 2010.

CONSULTATIONS

The TPO was served on the owner of the land in question and any other parties with a legal interest in the land. One objection has been received to the order, within the statutory 28 day period from its making by the neighbours, at 35 Burgess Hall Drive, Leeds Village. The full text of the objection is attached to this report as Appendix A.

The grounds of the objection are summarised as follows: -

1. Concern about the damage the tree is doing to the property.
2. Nothing can grow in the garden because the roots have extended into the garden.
3. Seasonal debris e.g. catkins and leaves, are blocking drains. This has resulted in their gutters being replaced.
4. The tree blocks out the morning light.
5. Additional vegetation from 'Ringers' is encroaching on the garden which is pushing roses from the arbour.
6. It is alleged that there are cracks in the property which may be attributed to tree root action and there is concern the buildings insurance will not cover subsidence.
7. As retired we are unable to carry out essential maintenance to the gutters.
8. Photographs are included showing catkin debris and the blocked soakaway.

CONSIDERATIONS

SITE AND SURROUNDINGS

The tree is a mature Silver Birch located in the rear garden of 'Ringers', specifically it is located in the south western part of the garden. The property lies within Leeds (Upper Street) Conservation Area.

The garden itself surrounds the dwelling on all sides however the Birch is the only mature tree within the garden. A conifer hedge is on the south and western boundaries of the garden and is maintained at approximately 8 feet. The section of the garden where the tree is situated is surrounded by grass. There are a number lateral roots which are visible; this is as a result of the soil being compacted.

DESCRIPTION OF TREE/S

The tree has a diameter at breast height (dbh) of 50 cm; the height is 12 metres and it has an average radial crown spread of 3 metres. The canopy exhibits good vigour. A cavity was however noted on the northern aspect of the stem, although it

was not possible to ascertain the extent of the decay but there were external signs on the stem that indicated there was a strong annual increment of growth.

LEGAL CONTEXT

The Local Planning Authority (LPA) can deal with a section 211 notice in one of three ways. It can:

- make a TPO if justified in the interests of amenity. The proposal is then likely to be the subject of a formal application under the TPO, or
- decide not to make a TPO and allow the six week period to expire, at which point the proposed work may go ahead as long as it is carried out within two years from the date of the notice, or
- decide not to make a TPO and inform the applicant that the work can go ahead.

The LPA cannot refuse consent. Nor can it grant consent subject to conditions but it can offer practical advice on how the work should be carried out (informatives).

In order to consider whether a TPO should be made the amenity value of the tree or group of trees is assessed. Special attention is paid to the desirability of preserving the character or appearance of any conservation area. However, even if the tree, or group of trees, merits a TPO it may not be expedient to make one. The proposed work, for example, may be in line with good practice.

ASSESSMENT OF CASE

CONTRIBUTION TO AMENITY

Within the immediate area there few mature trees, particularly indigenous species which are as prominent as the Silver Birch and if removed would have a detrimental effect on amenity value of Leeds (Upper Street) Conservation Area.

RESPONSE TO OBJECTION/S

The response to the principle points set out above is as follows:-

1. It is not unreasonable to be concerned about mature tree located close to properties. However in this case there is no supporting evidence to support the claim that the tree is damaging the property.
2. This is a problem commonly associated with a specific use of a private garden and is not a consideration when confirming a TPO.
3. The issue regarding leaf and catkin debris is a natural occurrence and a blocked gutter is a maintenance issue. There are products available on the market which can be easily installed and will help alleviate the problem with arisings.

4. There is no 'right to light' in relation to deciduous trees under current legislation, except in specific circumstances and, in any case, no evidence has been provided to date which proves that the right to light has been accrued.
5. The additional vegetation which is encroaching onto the property and causing damage to the arbour is a maintenance issue and not a consideration relating to the confirmation of the TPO.
6. No evidence has been provided to demonstrate structural movement is occurring. If evidence is provided in the future, any necessary remedial works can be applied for.
7. It is acknowledged that the landowners are retired which means they may have to employ a contractor to carry out essential maintenance work to the gutters. However it should be noted that there are alternative solutions to prevent the gutters from being blocked which are discussed in point 3 above.

The issues raised in the objection letter are commonly associated problems where trees are in close proximity to dwellings. The Silver Birch tree in question has sufficient public amenity value, and fulfils the criteria, to merit the making of a Tree Preservation Order and, because the proposed felling of the tree is considered to be inappropriate management, it is expedient to make a TPO in this case.

CONCLUSION:

For the reasons set out above it is considered that:

There are no grounds of objection above which are sufficient to throw the making of the Order into doubt.

RECOMMENDATION:

CONFIRM WITHOUT MODIFICATION Tree Preservation Order No.20 of 2009.

OBJECTION

ack
5/10/09.

406/121/4

35 Burgess Hall Drive
Leeds Village
Maidstone
Kent ME17 1SH

23rd September 2009

Maidstone Borough Council
King Street
Maidstone
Kent ME15 6JQ

E.F. Correspondence?	
REF:	
01 OCT 2009	
CHG. DES. &	
DRAWER	

Dear Sir or Madam

Re: Tree Preservation Order No. 20 of 2009

We refer to your letter dated 15th September 2009 concerning the tree on land at "Ringers", Upper Street, Leeds, and thank you for giving us the opportunity to appeal against the current preservation order, which we are amazed has been granted, particularly with regard to the tree's proximity to our property and the damage it is doing.

Our appeal against the Preservation Order is based on the following.

We have a very small rear garden which is only approximately 15 ft long x 30 ft wide.

Several years ago, we asked Ringers to do something about their trees, in particular the roots of the tree which has the preservation order; because they had grown so far into our garden and that nothing would grow within about 10ft of the roots, not even the grass. They did not take any notice of our request and our only alternative was to pave over our garden and this has also been affected by the roots.

Another problem we have is with the catkins and leaves off the tree, which, when they fall, completely blocks our soak away. We have tried to re-route the soak away so that it drains into the small pond we have across the other side of the garden, but this is not ideal, as a soak away should drain into the ground so that the water enters the water table.

This year, all our guttering had to be replaced because of the amount of catkins and leaves which had filled them to the brim, and the weight of which damaged the guttering. We have enclosed photographs showing the amount of debris which came out of the gutters.

Because our garden is so small the tree totally blocks our light and the sun during the morning. Besides this tree, the Ringers lilac tree and conifers have encroached approximately 5 ft over our land, so much so that they have pushed all our climbing roses off the arbour we have at the side of the fence and although we have asked for them to put the situation right it has not been done.

The roots of the tree have also caused cracks to appear in the side wall of our house which abuts Ringers garden and we are concerned that our buildings insurance will not cover subsidence because of the proximity of such a large tree to our property.

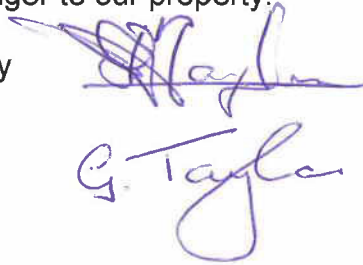
When we moved in some 25 years ago, this tree was not evident and we were not even aware of it, but over the years it has just been allowed to grow and grow unchecked and it has never ever been

seen or dealt with by a tree surgeon.]

My wife and I are both 72 years old and I have not been in the best of health recently, and I cannot continue to climb ladders in order to clean and replace gutters. As you may appreciate, we are pensioners and cannot afford to employ contractors to do the work for us. Our worry is that if my wife is left on her own, how would she cope with all the problems the tree causes to our property and garden?

We shall be obliged if you will please consider our appeal against the preservation order and objections to this tree, which in the light of the above we consider to be not just a continual nuisance but also a danger to our property.

Yours faithfully

Two handwritten signatures in blue ink. The top signature is 'D S Taylor' and the bottom signature is 'G A Taylor'.

D S and G A Taylor

CUTTER DOWN THROUGH HEIGHT
OF CHICKENS LEVELS, ECT



01 OCT 2009	INITIAL
CHG. DET. E	
DRAWER	



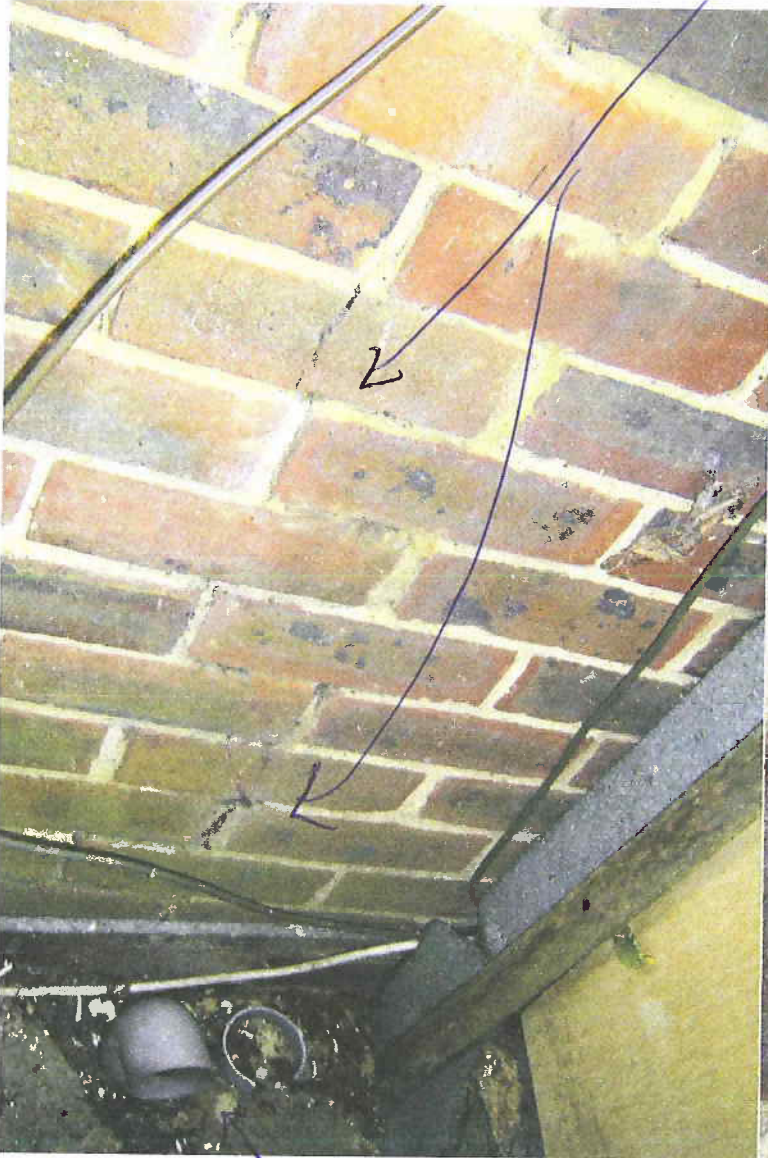
Kungas, upper Street, leads
TPO 20 of 2009



H-06/121/4

406/121/4

Burgers, Upper Street, Leeds
TPO 209 2009



SOAK AWAY BLOCKED.

RE-ROOTED DOWN PIPE



TO POND

CHIMRING ROSE. PUSHED OFF ARBOUR



406/21/4

TPC 2009 2009
Lampers / Upper Street / Leeds